

A PUBLICATION OF THE INTERNATIONAL FACTORING ASSOCIATION

COMMERCIAL FACTOR

January/February 2014 • VOL 16/ No. 1

DEBTOR QUALITY TRENDS



ALSO INSIDE:

**DON'T FORGET THE SUBORDINATION
WHEN CHECKING REFERENCES ISN'T ENOUGH
DETERMINING DEBTOR QUALITY
ANALYZING DEBTOR CREDITS IN 2014**

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This 2014 annual conference is on schedule to set attendance records as the largest conference ever for the factoring industry.

The conference has more sessions, more speakers, more exhibitors and more networking time than ever before. On the networking side, new this year will be a breakout breakfast for women in commercial finance and a breakout lunch for transportation factors. Other networking events include our golf tournament, RMP Welcome Reception, Bibby Social, Tax Guard Dessert Reception, Food Tour/ Walk for Charity, Spouse Tour, Closing Event at Ruby Skye and a Wine Tasting Tour in Napa Valley. Given all of the excitement we have planned for this year, it's no surprise that early registration is running higher than any previous year. Detailed conference information can be found on page 29.

We are very excited to announce that we have just formed our second Chapter, the IFA Northeast. This chapter will serve factors, asset based lenders and other receivable finance companies from Virginia to Massachusetts. Their mission is to provide networking opportunities and training for members in the Northeastern portion of the U.S. I would like to thank Harvey Gross as well as the entire board of the NE Chapter for their effort in founding this group.

I want to remind everyone that IFA members have agreed to adhere to our Code of Ethics. By virtue of their membership, IFA members have indicated they will strive to achieve the highest level of accountability and to treat other members as well as clients with an elevated level of respect. The Code of Ethics can be found on the homepage of our website. We enforce this code and treat complaints from other members and clients seriously. Members that we have had issues with are listed on the website. Please keep this in mind as we strive to elevate the factoring industry by treating other members, as well as your clients, with the respect they deserve.

If you haven't looked into our Certification program, now is a good time to do so. This is the first professional certification of its kind that recognizes professionalism within the Factoring Industry. To learn more about the program or to apply, visit www.factoring.org/documents/IFA%20CFAE%20Application.pdf.

We are happy to announce the IFA's newest employee, Terri Baker. Terri comes from a factoring family and has been involved with the factoring industry for over 10 years, most recently working as the Vice President of Sales and Marketing at RiskFactor. She will be serving as our Director of Marketing. We are thrilled to welcome her to the IFA.

Thanks again for your support of the IFA, and I look forward to seeing everyone in San Francisco.

COMMERCIAL FACTOR



THE INTERNATIONAL FACTORING ASSOCIATION

6627 Bay Laurel Place, Ste C
Avila Beach, CA 93424
MAILING: PO Box 39
Avila Beach, CA 93424-0039
800-563-1895

EXECUTIVE DIRECTOR

Bert Goldberg

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EDITOR/DESIGN & GRAPHICS

R&W Publishing Associates, Chelsea Kirtley
chelsea@rw-assoc.com • 727-450-9870

ADVERTISING SALES

R&W Publishing Associates
lisarafter@rw-assoc.com • 610-213-9105

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The International Factoring Association's (IFA) goal is to assist the factoring community by providing information, training, purchasing power and a resource for factors. The IFA provides a way for commercial factors to get together and discuss a variety of issues and concerns about the industry. Membership is open to all banks and finance companies that perform financing through the purchase of invoices or other types of accounts receivable.

The *Commercial Factor* is published bi-monthly by the International Factoring Association. **To subscribe, please email info@factoring.org.**

The *Commercial Factor* magazine invites the submission of articles and news of interest to the factoring industry. **For more information on submitting articles or advertisements, email news@factoring.org, or call 800-563-1895.**

The views expressed in the Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.

PERSONNEL

TAB Bank's Recent Hires and Promotions

Curt Queyrouze brings over 30 years of experience to TAB Bank's executive management team, where he will serve as chief credit officer. He will be based out of corporate headquarters in Ogden, UT.

Justin Gordon has been promoted to senior vice president of sales and marketing. Gordon will continue to be based out of corporate headquarters in Ogden, UT. Prior to his new assignment, Justin served as vice president and national sales director for TAB Bank.

Patrick Eakins joins TAB's business development team as vice president and business development officer. Patrick, who brings over twelve years of financial sales and marketing experience to TAB, will be based in Nashville, TN.

Jan Allen Ackley has been promoted to senior vice president and chief lending officer. He will continue to be based out of corporate headquarters in Ogden, UT. Prior to this assignment, Ackley served as vice president of asset based lending for TAB Bank.

Gibraltar Business Capital Adds Riley as BDO in Mid-Atlantic Region

New SVP of Loan Originations for the Mid-Atlantic Region, Ben Riley joins Gibraltar with more than 15 years of experience in the factoring and asset-based lending industry.

Utica Leaseco Welcomes Business Development Representative, George Garrod

George Garrod will be responsible for marketing Equipment Sale Leasebacks and Term Loans from \$350,000 to \$10 million secured by machinery & equipment on a national basis, and will be working out of the newly established Chicago office. He has worked in asset based lending for over 25 years.

INDUSTRY TRANSACTIONS

TAB Bank's Recent Transactions

\$4.7 million in equipment loans for 27 trucking companies during the 4th quarter of 2013

\$5 million asset-based credit facility to an automotive parts manufacturer based on accounts receivable and inventory

\$1.5 million revolving credit facility to a transportation company based on accounts receivable

\$2 million credit facility for a recycling company that produces FDA-approved plastic containers used for food packaging

an \$8 million revolving credit facility to a toy distribution company based on accounts receivable

Gibraltar Closes Four New Deals and Provides Financing Solution to Support EcoSMART Business Growth

\$2.5 million asset based revolving line of credit plus equipment term loan for a logistics company, offering warehousing, storage and order fulfillment

\$550,000 asset based revolving line of credit for a designer, manufacturer, and distributor of paper products

\$400,000 to a buffet-style restaurant for building upgrades and new equipment for its catering business

\$100,000 factoring line of credit to a manufacturer of mole and taco and seasonal sauces to fulfill purchase orders and shipments to a regional distributor for Whole Foods

Gibraltar Business Capital closed a revolving line of credit for EcoSMART Technologies, Inc., the leading provider of safe pesticide solutions in the U.S. and abroad. The working capital financing

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will be earmarked for operations, sales and marketing efforts.

Utica Leaseco's Recent Transactions

\$1,450,000 refinance, cross collateralization and secured loan for a trucking company, Utica Leaseco's eighth transaction with this customer since 2008

\$400,000 new equipment financing for an existing Utica Leaseco customer

\$955,000 Sale/Leaseback for a pile

driving, hoist and construction repair operation

\$3,200,000 Sale/Leaseback for a bus and public transportation company

\$1,925,000 Sale/Leaseback for an energy services company

OTHER INDUSTRY NEWS

Bayside Business Solutions Achieves SSAE 16 Type 2 Certification

Bayside Business Solutions has successfully completed a Statement on Standards

for Attestation Engagement No. 16 (SSAE 16 or SOC 1) Type 2 audit for their CADENCE Portfolio Management System and Hosting Services. A SOC 1 Examination is performed by an independent auditing firm and examines the controls and processes involved in storing, handling, and transmitting data securely. The successful completion of the voluntary audit illustrates Bayside Business Solutions' ongoing commitment to create and maintain the most stringent controls for the protection and security of its customers' confidential information.



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International Factoring Association Launches Northeast Chapter

The Chapter will serve factors, asset based lenders, other receivables finance companies, as well as service providers from Massachusetts to northern Virginia. It will be an independent local association affiliated with the IFA and will be led by Executive Director, Harvey Gross.

The Chapter was formed to assist industry firms by providing additional training and networking opportunities at the local level. Current IFA members in these states will automatically be grandfathered into the Northeast Chapter. The Northeast Chapter leadership includes:

- Executive Director- Harvey Gross of HSG Services, Inc.
- President- Stuart Rosenthal of Prestige Capital Corporation
- Vice President- Robinn Mikalic of JD Factors
- Treasurer- Paul Schuldiner of King Trade Capital
- Secretary- Richard Simon of Mandelbaum Salsburg
- Attorney- Paul H. Shur of Windels Marx Lane & Mittendorf LLP
- Accountant- Brett Rea of Savastano Kaufman & Co.

For more information on joining the Northeast Chapter or available sponsorships, contact Harvey Gross at (732) 672-8410. If you are interested in forming a chapter in your area, contact Bert Goldberg at (805) 773-0011 Ext. 302.

Steve Ontiveros the Latest to Become Certified Factoring Executive

Lenders Commercial Finance (LCF) is pleased to announce that Steve Ontiveros is the latest to achieve the International Factoring Association's Certified Factoring Account Executive (CFAE) designation. Individuals who achieve the designation of Certified Factoring Account Executive (CFAE) have proven to possess the knowledge and skills required to operate effectively in Factoring and Asset Based Lending relationships. •

Be Alert. Accidents Hurt. Don't Forget the Subordination.

Seat belts save lives – but you have to use them. Subordinations of federal tax lien (subordinations) are similar to seat belts – they will protect your collateral so long as you use them. It's important that they not be taken for granted.

BY JASON PECKHAM, ESQ.

Seat belts save lives – but you have to use them. I have a bad habit of waiting until after I back out of the driveway and put the car in “drive” before I buckle up. My five-year-old daughter reminds me to put my seat belt on halfway down the drive. I (usually) resist the urge to say, “Don't tell daddy what to do!” Instead, I take a deep breath. Just as I'm about to say something sarcastic, the teenager from down the street with a new car comes around the corner going way too fast. It's nice to have someone looking out for you.

Subordinations of federal tax lien (subordinations) are similar to seat belts – they will protect your collateral so long as you use them. Moreover, it's important that they not be taken for granted – subordinations are not absolute or indefinite. Rather, subordinations are tied to Installment Agreements and usually have expiration dates.

Is a Subordination Necessary?

Lenders frequently ask whether they are protected from the IRS when their clients (a) have a federal tax liability, (b) a federal tax lien has been filed, (c) there is an Installment Agreement in place, but (d) there is no subordination. Per the Internal Revenue Manual, the IRS's procedures based on the Internal Revenue Code, the IRS cannot levy bank accounts or receivables while an Installment Agreement is in effect. The existence of an Installment Agreement in good standing should also protect the lender from disgorgement (tortious conversion of assets).

A lender can fund with an Installment Agreement in place while waiting for the subordination to be accepted and reduced to writing by the IRS. In that sense, the Installment Agreement (Step One) is essentially a bridge to

the formal subordination (Step Two). Lenders can fund with an Installment Agreement in place, but they really want and should obtain the subordination as well. If lenders are going to fund with just an Installment Agreement in place, it should be for a short period to allow the IRS time to process the subordination paperwork.

A number of lenders forget or ignore Step Two – the subordination. Without the subordination, the lender's protection is based solely on the Installment Agreement. Assuming the Installment Agreement is and remains in good standing, there should be no problems. However, 95 percent of all Installment Agreements with the IRS fail – typically because they were set up to fail in the first place because of a large down payment or an unaffordable monthly installment payment.

If the lender is funding with the protection of an Installment Agreement only, the protection disappears when the Installment Agreement is terminated. Once the “Notice of Intent to Terminate the Installment Agreement” is issued by the IRS, the clock begins to run, and the “race” with the IRS to collect out begins. The lender will have 30 to 45 days to collect out before the IRS can levy the receivables (it is possible that the lender will have longer before the IRS actually issues a levy). The clock begins to run whether the lender is aware of the “Notice of Intent to Terminate the Installment Agreement” or not.

Benefits of a Subordination

The subordination provides additional and important protections to the lender. Most importantly, the subordination clearly defines the rights of the lender and allows the lender to avoid the “race” to collect out with the IRS entirely. The subordination puts the

lender in the first secured position relative to the IRS for receivables funded and used as collateral while the subordination is in effect (there should be no risk of disgorgement). If an Installment Agreement terminates and the subordination is no longer in effect as a result, the lender maintains the first secured position relative to the receivables so long as the funding occurred while the subordination was in effect. As such, the lender can take as long as necessary to collect out. There is no “race” with the IRS – the lender does not have to collect out before the IRS begins levying receivables since the lender has priority.

The existence of a formal subordination certificate – IRS Form 669-D Certificate of Subordination of Property From Federal Tax Lien – increases the likelihood the IRS will actually send to the lender the “Notice of Intent to Terminate the Installment Agreement” and/or notification the subordination is no longer in effect. When the IRS issues the subordination, there is usually an attachment – the “SUBORDINATION AND FORBEARANCE AGREEMENT” (“Subordination Attachment”). Paragraph 15 of the Subordination Attachment indicates in the event of default, “[The IRS] will notify the parties...in writing by certified mail that a default has occurred.”

Additionally, the subordination provides a window for the client to fix any problems and get the Installment Agreement back into good standing. Paragraph 15 of the Subordination Attachment indicates, “The Taxpayer has Thirty (30) days to cure either the default in the Subordination Agreement or the default in the accompanying Installment Agreement.” If the client can fix the problem, the lender can continue to fund. If the client cannot fix the problem, the lender has

thirty days to begin planning an exit strategy (cease funding).

Compare the subordination's notice provisions to a situation where there is an Installment Agreement only. Once the IRS issues the "Notice of Intent to Terminate the Installment Agreement", the lender must stop funding and begin collecting out immediately. There is insufficient time to fix the problem and put the Installment Agreement back into good standing since the IRS may be in a position to levy in 30 days. The client may lose its business and the lender will likely lose the client.

Continued Diligence

Once a subordination is obtained, the lender cannot fall asleep (even with a seat belt, it's important to watch the road). There are two important items to monitor – the underlying Installment Agreement and the expiration date of the subordination.

The Installment Agreement

A prerequisite for a subordination is an Installment Agreement in good standing. If there is no Installment Agreement in place, the IRS will not agree to a subordination. Moreover, once the subordination is obtained, if

the underlying Installment Agreement terminates, it will take the subordination with it. When one considers that 95 percent of all Installment Agreements with the IRS fail, it is important to monitor the underlying agreement to ensure it remains in good standing.

For an Installment Agreement to remain in good standing, there are three requirements. First, there can be no periods of liability outside the agreement (the business must be current and compliant with its federal tax deposits). Second, there can be no "missing" returns. Finally, the taxpayer must make the periodic (almost always monthly) installment payments in full and on time.

The consequences of a client failing to make a federal tax deposit, file a federal tax return, or make a monthly installment payment can be severe – the Installment Agreement and subordination can be terminated. Although the IRS is supposed to notify the lender in the event of default and termination, there is no absolute requirement to do so. In fact, paragraph 17 of the Subordination Attachment indicates, "The failure of [the IRS] to notify the parties of any default will not constitute a waiver of either the default of the Installment Agreement or this Subordination Agreement." Since the lender cannot count on notice from the IRS, it is important for the lender to monitor all three requirements for keeping an Installment Agreement in good standing (not just the monthly installment payments).

Expiration Date

Generally, subordinations are not indefinite. On occasion, the IRS will fail to include an expiration date, but typically a specific date or timeframe (three to twelve months) is included in the subordination documentation. The IRS's Internal Revenue Manual finally updated the section relating to subordinations and factors in October 2013. Section 5.12.10.6.1.1(4) indicates, "The subordination must be for a period no longer than one year."

To determine the expiration date, the lender must look at the documentation itself. Some IRS Form 669-D subordination certificates provide specific dates, for example, "[F]or all receivables coming into existence between January 1, 2013 and January 1, 2014." Other subordinations rely on the Subordination Attachment to provide the expiration date. Paragraph 21 of the Subordination Attachment



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provides, “The period of this subordination shall be One (1) year [for example] from the date the Service approves the subordination, as evidenced on the Form 669-D, Certification of Subordination of Federal Tax Lien.”

During the course of monitoring, we have come across a number of situations where Installment Agreements have defaulted and/or terminated. When we bring these issues to the attention of the lender, a common response is, “That’s okay, we have a subordination in place.” Not so fast.

If the Installment Agreement is no longer in effect, the subordination will likely no longer be in effect either, regardless of whether the IRS provided notice. The lender will be protected on receivables funded while the subordination was in effect, but not those funded after the subordination terminated (or expired). Unfortunately, in a number of these instances, the subordination in question expired long ago (well before the Installment Agreement terminated).

Lenders must pay attention to the Installment Agreement and the expiration date of the subordination, otherwise the “protection” provided by the subordination is non-existent. In keeping with the seat belt theme – trust your captain, but keep your seat belt securely fastened. Don’t forget the subordination. Just as important – once you have it in place, keep an eye on it (and the underlying Installment Agreement). Trust, but verify. •



Jason Peckham, Esq. is Vice President of Resolutions for Tax Guard, Inc. Tax

Guard monitors federal tax compliance, identifies risks before federal tax liens are filed, and resolves federal and state tax liabilities. He can be reached at 303-953-6325 or jpeckham@tax-guard.com.

Update on Pat Burns of Primary Funding

BY JASON AND DIANE SEVERSON



Pat suffered from an Ischemic stroke on October 14, 2012 that affected the entire right side of her body. She was unable to walk, use her right arm or speak. It was devastating for Pat and her family. Pat has always been an independent woman, having been a single mom at the age of 22 and working her way up in the male dominated industry of factoring. With the effects of the stroke, Pat found herself in a very challenging situation at the young age of 60. She was sole owner of Primary Funding, had two grandchildren she loved spending time with, her youngest daughter was still in college, and she had just returned from a trip to the Galápagos Islands. Life was good, and this stroke was not something she or anyone could have ever imagined happening. The initial prognosis was not good. Pat wasn’t found for over 20 hours after the stroke, which means there was nothing they could do to reverse the damage. She started physical therapy, occupational therapy, and speech therapy right away while in the hospital. She slowly worked her way to walking with a

brace, with someone by her side. Pat was discharged from the hospital in mid-November and lived with her daughter Diane, son-in-law, Jason Severson, and their two children. She lived with them for 7 months while she attended therapy 5 days a week for up to 8 hours a day.

Those of you that know Pat know that she works hard at anything she does. This is when her pure determination and inner strength came to be the pinnacle of her recovery. She regained more and more movement in her right leg and was able to walk better on her own. She was able to say more words and formulate sentences. Her cognitive ability was improving, and her desire to be independent again was there. Her daughter Diane helped her find a single story home close to their home and moved Pat into her own place again. This was in July, and from there, her family saw even more improvement from Pat. She still had a live-in caregiver with her to help with daily tasks and driving her to and from therapy, but Pat was improving, and it was noticeable.

Meanwhile, Primary Funding needed someone to steer the ship, and luckily, Pat’s son-in-law, Jason, was there to assist. Pat had actually met Jason at a Corporate Finance Council meeting before introducing him to her daughter. Yes, not only is Pat an accomplished business woman, she is also a matchmaker. Fortunately for her, Jason had over 16 years in business banking and had a solid understanding of factoring. During Jason’s time in banking, he held positions of credit analyst, commercial banker, and manager of a large branch, overseeing a lending team. Jason took a leave of absence from California Bank & Trust to see what needed to be done while Pat focused on getting better. After a few months, it became apparent that Pat would not be returning to work anytime soon, so after much thought, Jason left the bank to run Primary Funding. Jason received great guidance from many members of IFA, and from Pat’s operations manager that had been with her for the past 25 years.

Jason is now President of Primary Funding, and is looking to expand on what Pat has built. Primary Funding will celebrate 20 years in business at the end of 2014. Under Jason’s guidance, Primary Funding has added a few key employees, most notably Joel Ewan. Joel and Jason worked together at California Bank & Trust, where Joel was Executive Vice President and Chief Credit Officer for the San Diego Division. Jason and Joel bring many years of banking experience to Primary Funding, and they look forward to growing the business. In fact, with the skill set they bring to the table, Primary Funding is now going to offer ABL and equipment financing. The company will continue to focus primarily on factoring, but offering these additional services will allow Primary Funding to help more businesses succeed.

Pat is continuing to get better and, as CEO, she looks forward to getting back to work in at least a limited capacity in 2014. In the meantime, Jason and Pat frequently “talk shop” at family get-togethers, where Jason can update her on the latest successes for Primary Funding. •

IFA Members Making A Difference

THE IFA "MEMBERS MAKING A DIFFERENCE" COLUMN FOCUSES ON THE MANY IFA MEMBERS MAKING A DIFFERENCE IN THEIR COMMUNITIES AND IN THE WORLD.

Q&A with Helma Mazon, Mazon Associates

What charities are you involved with?

Baylor Medical Center Irving (non-profit hospital): various positions; Chairman of the Board

Irving Hospital Foundation: various positions; Honorary Chairman of their annual fundraiser, TexasFest

Irving Hospital Authority: various positions; Chairman of the Board

What causes are nearest to your heart?

I have been volunteering at Baylor Medical Center Irving because my family has been involved with this hospital for years. All three of my children were born at BMCI. My parents were treated there for years, and BMCI was where I was treated for breast cancer seven years ago.

How did you become involved in the charity or charities?

By owning & operating a business in

the same town for years, and being on the boards of other entities in town (Irving Symphony Board, Irving Symphony League, various committees at Plymouth Park Baptist Church).

Where do you see it making a difference?

Quality of healthcare for the community.

How has volunteering affected you? Has it influenced or had an affect on your business?

Knowing that we have the best equipment, personnel, and supplies to aid our community.

Why is giving back and helping these organizations important to you?

With health care so uncertain, it is necessary for everyone to engage in helping their healthcare providers.

How can we learn more about the charities you are involved with?

Since my main charity is BMCI, you can look up Baylor and Irving Healthcare Foundation on the internet. •



Helma started Mazon Associates in 1976, where she acts as Executive Vice President. She has served on the board of

the Commercial Finance Association and instructed classes for the SBA and the Southern Dallas Development Corporation. Helma remains actively involved at Mazon, assisting clients and helping meet their needs. She enjoys needlepoint, relaxing in Colorado, and spending time with her grandchildren. Helma can be reached by phone at (972) 554-6967 ext. 226 or by email at helma@mazon.com

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Are You Certifiable?

Why you should raise your game and take the CFAE exam

BY STEVEN HAUSMAN, WITH DARLA AUCHINACHIE

The American Medical Association. The National Association of Realtors. The Financial Accounting Standards Board. What do these organizations have in common?

They are all self-regulating. Are there messed-up doctors, realtors and accountants? Sure. But who better to deal with them than those who have the most to lose and also the most to gain? Self-regulation beats all the alternatives and it's not even close. It's just impossible for any group to raise its bar without establishing one in the first place.

Enter the Certified Factoring Account Executive (CFAE) designation, the first certification of its kind that recognizes professionalism within the factoring industry. The CFAE is the “gold standard”—or at least a significant first step in establishing that standard—for an industry that I believe is ready and willing to raise its own bar.

That's one of the reasons why I took the CFAE exam. Now, in all honesty, I wasn't any more excited to sit for the test than I am for seeing a dentist. But some things are just too important not to pursue.

First of all, I know most of the people who helped put this certification project together and, as a result, I had a pretty good idea of the effort that went into it. I wanted to honor my colleagues who had committed so generously to enhancing the substance and credibility of our chosen profession. Second, I wanted to gauge my own team's collective knowledge relative to the best of our peers. Our company intends to use this examination as a starting point for calibrating our own training and development needs.

By the same token, there are plenty of factors who could stand to raise their game. These specifically include those who:

continually annoy account debtors, whom we all ultimately depend upon for payment;

assert positions that are unsupported either by law or contract; and/or

draw negative public attention to themselves, and consequently our business, in the midst of a challenging political climate.

Now, in all these regards, our own business has ample opportunity for improvement as well. And for the reasons listed above, we want to do the work ourselves: assessment, training, internal recognition, discipline—the whole nine yards. So let's find out who around here is “certifiable”. Fortunately, I knew exactly where to start. I called the IFA and asked for Director of Development, Darla Auchinichie.

Me (Steve): Hey, Darla. How does somebody sign up for the CFAE exam?

Darla: The IFA has a web page dedicated to the CFAE, including an online application. Just go to www.factoring.org and click on the CFAE icon at the bottom left of the home page.

Not that money is any object, but exactly how much does it cost?
It's \$299.

Can you pay after you take the exam, just so you can see what you're getting into before committing to the whole amount?
No.

Can you pay in two or three easy installments? I'm thinking it might really improve the popularity of the certification program.
No.

Can you pay by credit card?
Yes.

I don't like to travel very far. Are there places close to my house where I can take the exam?

There are 350 ISO Quality Testing centers all over North America. If you're experiencing any difficulty locating a center near you, contact IQT at 866-773-1114 or visit isoquality-testing.com.

How many questions are on the exam and how long does it take?

There are 100 multiple-choice questions, and it normally takes one to two hours to complete.

Are there any requirements besides passing the exam for achieving the CFAE designation?

Yes. We require at least two years of work experience within the factoring industry, ideally including experience as an account executive or managing people in that role. As well, we require an individual commitment to support and adhere to the IFA Code of Ethics.

What's the best way to prepare for the exam? Is there a study guide?

There is no study guide. This exam is a tool to measure a candidate's working knowledge of factoring. A person should be able to answer questions on the exam using his or her proficiency and experience in the industry, not based upon memorizing study materials.

Who worked to put the examination materials together?

Our team of subject matter experts includes (in no particular order) myself (Darla); Jay Atkins, First Capital; Debra Wilson, Vertex; Gen Merritt-Parikh, Allied; Ken Walsleben, Hamilton Group; Cole Harmonson, Far West Capital; Jon Anselma, Paragon Funding; Marty Lewald, Crestmark Bank; Wade Hladky, Gulf Coast Business Credit; Gail Reints, Sky Business Credit; Roger Allen, LSQ; Kris Varley, Bibby USA; Sally Stark, Sienna Capital; Robyn Barrett, FSW Funding; and Marc Marin, Gateway Commercial Finance.

So how did they do on the exam?

They're not eligible to take the exam. One might say that we have an unfair advantage, given the fact that we collaborated on the creation of the knowledge base, not to mention authored many of the exam questions.

What happens if you flunk the exam and, more specifically, who's going to know about it? Also, what excuses have you found to be most effective should that happen?

If for some reason you don't pass the exam on the first sitting, you have two more chances to take it again in a single calendar year. Your company does not need to sponsor you.

Continued on page 29



When Checking References Isn't Enough: Background Investigations

Organizations should continually be on the lookout for new ways to mitigate their risk, and conducting background investigations is an effective and easy way to do so.

BY TONYA SPILLMON

“What You Know Matters” and “When You Know Counts” has been a philosophy of mine for years. Organizations should continually be on the lookout for new ways to mitigate their risk, and conducting background investigations is an effective and easy way to do so. A dear friend and business associate sent me a clever poem about protecting your job and your company:

A lender has got a pretty good job

But it all can go down if his borrowers rob

Against that event there's moat to erect

Making efforts your capital to protect

It only made sense your prospects backgrounds to check

To make darn sure what you think is correct

It's cheap job insurance to say you've done all you can

And a background check is part of the plan

As you make plans for 2014, let background checks be part of your plan!

Background checks can be of major importance in demonstrating proper due diligence and further safeguarding your organization. The Rate on Investment for background checks and screenings should be considered a valuable business expense that will limit your liability for many years to follow.

Partnering with the right background search firm and selecting the right product:

When selecting a background search provider, there are several important characteristics to be considered:

SOURCES OF INFORMATION-

Creditable providers will go straight to the source, retrieving records from courthouses, record repositories, contacting employers, financial institutions, and educational institutions directly, and licensing agencies on certifications. Databases or online sources should be updated regularly and tested for inaccuracies or outdated information.

ACCURACY OF INFORMATION- This is a very important factor to consider that will help guarantee that you are getting the return on your investment. Your provider should have in place a quality control and assurance policy. The investigators, data retrieved, and final reports should all be monitored for quality assurance so that the product delivered to you is complete, current, and accurate.

KNOWLEDGE AND UNDERSTANDING OF YOUR INDUSTRY-

The background search provider should understand your industry so that the background investigations are compliant with your standards of due diligence. This type of expertise will ensure the proper product or background search to request and how in-depth the investigation needs to be. For example, the background search firm should be able to assess your need and determine if only a criminal and civil litigation background search is required for the level of risk associated with the

prospect or candidate for employment.

Is your only concern federal and state tax liabilities? Do you need a 20 year comprehensive background investigation that requires unique handling of personal data, extensive public records, integrity and character of the prospect, a consumer credit history profile, a search for negative news media highlighting such current and potential liabilities, both nationally and internationally?

GLOBAL ACCESS -

Business and trade has become more global over the last several years, and this appears to be a trend that will not change in the years to come. Therefore, a critical capability for background search firms is to be able to provide background searches on a domestic and international basis. Business prospects, candidates for employment, vendors, etc. come from around the world, and many have global offices which require the background search provider to maintain a quality control plan and network of accurate, global information sources to ensure delivery of credible reporting.

LONGEVITY AND EXPERIENCE -

Another important consideration when selecting a background search provider is how long the company has been around, and what their references reveal. What is their track record of providing high quality, accurate reports, and their record of customer service/satisfaction?

Rate on Investment with Background Checks:

As my friend said, a background check is cheap insurance that will provide returns on your business investment and should be money well spent, which is why you should consider background checks for your 2014 due diligence plans:

- Safeguard your organization’s assets.
- Risk reduction assessments
- Avoid long term costs and liabilities.
- Identify red flags early on.
- Maintain your good reputation.
- Selecting the best candidates for employment
- Protecting you from negligent decisions

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- Building trust within your organization and associates
- Promote safety and reduce potential for violence.

If a Background Search Isn't in the Budget:

Be your own private investigator. The advantages and benefits of background searches are realized not just by businesses, lenders or employers, but by you, the customer, as well.

The concept of background searches can be considered an essential proactive risk mitigation strategy for life in general, and a way to protect your future. This concept leads many people to ask: "How can I afford to, or not afford to, run a background check?" "How can I protect my family, my business, or even myself?" The technology era and the internet has provided people access to such information as public records, criminal records, phone records, residential address histories, and social media at an affordable cost (as well as, at the push of a button on a computer or smartphone). Professionally conducted background checks will generally have both social security number traces or detects and a criminal record search performed on the subject. The social security number trace can track any address associated with that social security number, and investigators know how to follow that trail with the applicable recording agencies and court houses around the globe.

As you attempt to conduct your own investigation or due diligence, and do not have access to a social security number, date of birth, or an address history, there are basically two starting points to initiate a search for a criminal history or other public record information such as civil suits, tax liens, judgments or bankruptcy filings: database sources or onsite court houses and recorder's offices.

The database criminal record or public record source is less accurate but more efficient. Database sources tend to be more fallible, and information from these sources is not as easily accessible as the information a professional background search provider may be able to offer from their quality control system.

"ONLINE DATABASE COMPANIES PROVIDE A GREAT DEAL OF INFORMATION...BUT KEEP IN MIND THAT THIS INFORMATION NEEDS TO BE VERIFIED FOR ACCURACY ALONG WITH THE AGE OF THE DATA."

On-site searches are considered to be much more reliable and comprehensive when you have a strong guide or basis to start your search (last known address history, date of birth, business affiliations). Online database companies provide a great deal of information in regard to home residence histories and aliases through the assistance of credit card companies, marketing researchers and telemarketing firms; but keep in mind that this information needs to be verified for accuracy along with the age of the data, which will help you determine where and what geographical areas the onsite search needs to be conducted.

Criminal record searches are a whole other animal, whether you are conducting a database search or an onsite search. Again, the database criminal record searches are probably the most fallible. At the present time, there is no defined standard for a nationwide criminal search. This is why it is common for criminal records to go unidentified or not detected in other states with an online database criminal search. Criminal records are filed in a multitude of different jurisdictions, states, and counties, each of which operate under different rules and practices. Professional background search providers will help provide a network of investigators to aid in the onsite comprehensive criminal background check and help determine the applicable area to be researched. Do it yourself background searches will help provide a profile of your subject if a record has been

filed correctly, and if the area you are searching is covered by the database company purchasing that information. Database searches are very useful when it comes to searching media news sources. Knowing how to utilize the internet is a great start in being your own detective, as there are hundreds of background check search engines with valuable resources, including numerous industry specific associations, to help provide the knowledge necessary to protect yourself and your business interests.

When making background checks a part of your due diligence plan:

There is really only one way to conduct a thorough background search: combine computer-based nationwide searches with old-fashioned, in-person visits to the county courthouse that stores criminal and other public record information. •



Tonya Spillmon is a licensed Private Investigator representing C&R Credit Services, Inc. (C&R) located just outside New

Orleans, Louisiana. C&R is a licensed, bonded, private investigative agency that specializes in comprehensive financial background investigations, asset searches and fraud investigations for the finance industry and other professionals. Tonya entered the Credit and Collection business in 1991 as a Credit Investigator specializing in Asset & Liability searches with an approved FDIC Contractor, and assisted in the formation of C&R in 1994 as Sr. Vice President to help further expand the business into the factoring and ABL markets. She can be contacted by phone at 1-800-283-0909 ext. 1052 or by email at tspillmon@cr-cs.net.

Risk Management: Determining Debtor Quality

In a lending, factoring or private equity transaction, credit and character issues are of primary concern...past issues are often an indicator of future actions.

BY JERRY OLDHAM

TAX LIABILITIES IN A NEW LIGHT

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Winston Churchill once said, "There are times when there is nothing left to do but what is required." And so it is with risk management and background investigations.

In a lending, factoring or private equity transaction, credit and character issues are of primary concern, and a background investigation on the company and its principals is of significant benefit in uncovering those issues. In credit transactions, it is true that "what you don't know can hurt you!" While it may be sometimes said regarding financial performance, "past performance is not an absolute indicator of future returns," it's true that in character matters, past issues are often an indicator of future actions. Also, contingent liability issues of borrowers, management, and guarantors can usurp time and money from your transaction if not addressed. Fifteen to twenty years ago in the corporate finance industry, background investigations were performed by exception, obtained only when "red flags" were raised. Now, however, most corporate finance firms have established lead-in background investigation policies and guidelines. Background investigations have become much more the "norm" rather than the "exception." It is management who runs a company, and management who ultimately repays the loan. It is monumentally prudent to know your borrower before they walk out the door with your money!

Over time, we have seen a significant increase in criminal cases and other significant legal issues involving the subjects of the investigations. Most were not disclosed to the financial institution prior to the commission of the background investigation. And fraud is on the increase! According to Report to the Nations, published by the Association of Certified Fraud Examiners, in 2002, fraud cost U.S. organizations \$400 billion

annually. Their 2012 report estimates the annual cost of fraud internationally at an astounding \$3.5 trillion!

Another trend that makes uncovering bad behavior more difficult is that people are relocating more often, living in and running businesses in more jurisdictions than ever, and many have extended periods of international residency. That is why detailed locator searches are such a critical component in performing background investigations. Public records are maintained on a jurisdictional basis, and searching all applicable jurisdictions (state and federal courts and internationally, if applicable) is the most effective way to obtain the best results. In many instances, when a subject has moved numerous times, issues are often found in prior locations. A combination of on-site searches in every jurisdiction and a search of all available online databases (a dual searching methodology in which the investigation firm searches both online and on-site at state and federal courthouses for civil and criminal litigation, tax liens, judgments, and bankruptcies) produces the most thorough background investigation possible. To skip even one applicable jurisdiction could mean missing the possible deal-killer issue. Because records in many jurisdictions are not covered by any online databases, and many available databases lack tenure and recency (databases don't often go back as far as necessary and it may take a while for an issue to get into a database), relying only on databases may provide incomplete information. A search of media articles referencing the subject is essential as well, as media often provides a lead to an issue not yet before a court of law. And résumé fraud has become more commonplace than ever. Résumés are often "padded" and degrees may be completely fabricated, so, in many instances, verifications of education degrees, certifications, and résumés are recommended.

Following are a few examples of credit, character, and fraud issues found in some recent background investigations, none of which were disclosed to the lender or factor by the subject of the report:

BRIBING A BANK OFFICER/FELONY ARREST - The CEO of a prospect company was in jail for attempting to bribe his current bank officer

with cash. The day the prospective lender was interviewing officers of the prospect company, the CFO told the bank group that the CEO was having surgery, but, in fact, he was in jail awaiting criminal charges. Not only do we have a serious felony charge against the CEO, but an attempted cover up by the company CFO as well.

ACCOUNTING FRAUD - The CFO of a prospect company was a convicted felon in two separate crimes of tax fraud and tax evasion, the most recent conviction resulting in a prison

sentence served within the prior year. The referring private equity firm knew about the conviction, however, did not disclose it to the lender.

CHARACTER ISSUE - Eighteen years prior, the CEO of a prospect company torched a warehouse that housed his company's inventory in an attempt to cash in on insurance proceeds. The felony record was subsequently expunged by a district court judge, who may have been a friend of a neighboring district court judge, the subject's father-in-law. Although

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ultimately expunged, the felony/ crime was exposed in a media search during due diligence. Upon follow-up, a related civil action filed by the insurance company was found which referenced the criminal case.

ASSAULT - The CFO of a prospect company was arrested for assaulting the current lender's auditor during a special exam.

BANK FRAUD - Six criminal cases were found naming a principal of a prospect

company as defendant, charging him with crimes against lending/credit institutions. The charges included allegations that he knowingly made false statements to various banks for the purpose of influencing the actions of those banks with respect to millions of dollars in loans. The subject was convicted and sentenced to incarceration, probation, community service, and restitution. The due diligence also uncovered millions of dollars in open and released judgments and liens, a

prior bankruptcy, and numerous civil actions against him, some of which were pending.

GUILT BY ASSOCIATION - An article was found in a media search referencing a civil action against the CEO of a prospect company and another individual in relation to a previous business venture. The article noted that the other individual was a convicted felon in a \$700 million bank fraud case. Although the prospective lender had not requested a background search on this individual, he was also a principal in the current venture, and the felony conviction had not been disclosed.

CONTINGENT LIABILITIES - The CFO of a prospect company was found to have numerous outstanding liens and judgments against him, totaling in excess of \$5 million. He had also been convicted on a charge of possession of a controlled substance, and had an open warrant for his arrest on an assault with bodily injury/family violence. In addition, numerous civil actions were found naming the subject as defendant, with claims including: breach of contract; sales tax; foreclosure; negligence; and promissory note.

EMBEZZLEMENT - The principal of a prospect company was found to have been convicted in 1986 of embezzling

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Jerry Oldham is co-founder and CEO of 1stWEST Financial Corporation, an industry leader in providing

background investigation services to the corporate finance industry. Jerry has a broad senior management background in commercial banking and corporate and real estate finance. He frequently serves as a consultant or expert witness in litigation and settlement negotiations involving corporate finance, real estate, banking, and lending practice issues. Jerry often acts as a consulting team leader to manage the overall due-diligence process on complex investment decisions for 1stWEST clients. Jerry can be reached by phone at 303-670-3443 or by email at j.oldham@1stwest.com.

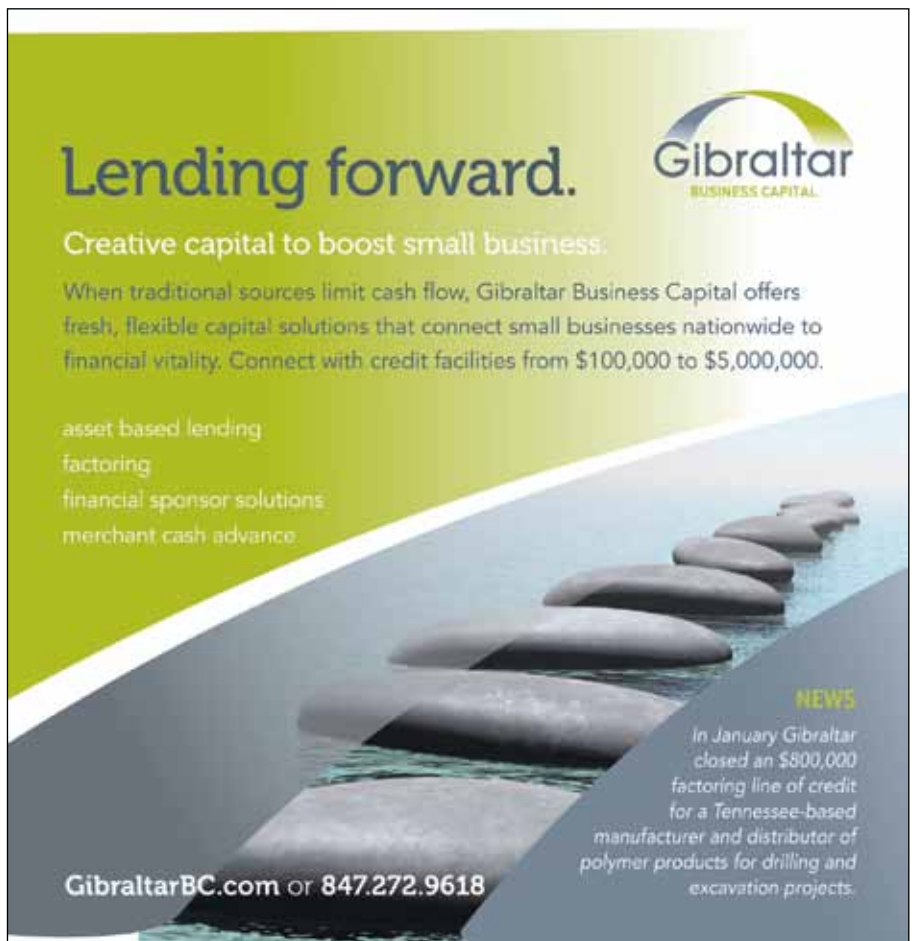
more than \$600K from a bank. The subject served three years in prison.


FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA - FORMERLY NASD) VIOLATION AND SANCTION -

The principal of a prospect company had been sanctioned, fined, and debarred from association with any FINRA member after charges that he changed the mailing address of a customer without the customer's consent; caused that customer's life insurance policy to be surrendered and a check to be issued without the customer's consent; and forged the customer's endorsement on the check, converting the proceeds to his own personal use.

FOREIGN SECURITIES ISSUES - Media articles reported that a principal of a prospect company had been investigated by the Securities and Exchange Board of India (SEBI) regarding the trading of a company stock controlled primarily by him, and accusing him of off-loading a huge quantity of shares to entities controlled by a related individual. The articles report that the subject resigned from the board of the

Continued on page 28



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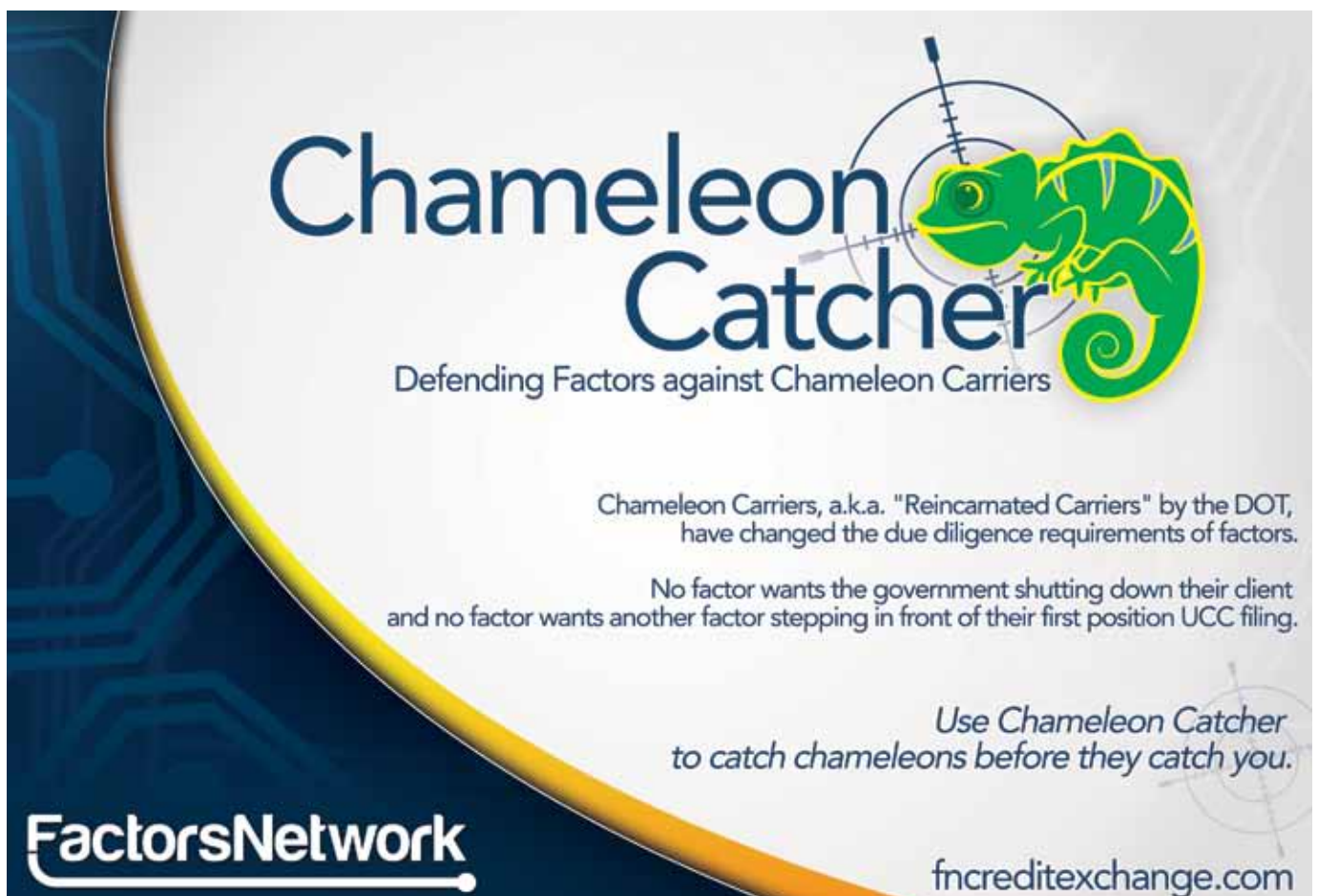
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Q&A WITH DEAN KARNAZES

SPEAKER AT THE 2014 FACTORING CONFERENCE

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Ultrarunning and factoring have a lot in common - fear of the unknown, hard work, sacrifice, and dedication even through the toughest times. What helped you get through some of your toughest races? For example, Badwater (135 mile race through Death Valley in July) or the marathon in the South Pole?

For one, having confidence in my abilities. This comes through the elements you described above: diligent training, commitment and sacrifice. Inevitably, when the going gets tough, you look inward and the voice in your head will either be saying, "You didn't do all that you needed to do in your training and preparation." or that voice will say, "You paid your dues; you didn't take shortcuts; you did the hard work." There's no fooling yourself, and when things get difficult is when you look most honestly.

What characteristics do you have that have helped you be successful in running ultramarathons and starting your own businesses?

The two strongest characteristics for success in athletics and business are discipline and passion. It certainly helps that I love what I do. The hard work, long hours, and focus required for high achievement come much easier when you love your craft.

With all the training and races, what keep you injury free - or at least keeps the injuries at bay?

I am blessed with good biomechanics and a physiology built for long-distance running. Much of this is hereditary. They say the best thing you can do as a long distance runner is to choose your parents wisely. (laughter) I also do a lot of cross training to

condition and strengthen other parts of my body. Lastly, I never sit down. Sitting is the new smoking. My entire office is set up at waist-level so that I can do all my work while standing.

You have faced a lot of demons - death of your sister, alcohol, and some of the toughest footraces in the world. What has been your most difficult obstacle to overcome and how did it change your course in life?

While I have overcome great hardship in my life and survived some of the toughest endurance races in the world, nothing has been more challenging than raising two kids. My top priority in life is to be a good father, and children test you in ways you never could imagine. It's required me to be patient (not my strongest quality), sensitive (yet stern at the same time), and flexible (though consistent). I have grown more through having two children, and it has helped me become a better person.

How do you prepare the mental endurance of an ultrarunning race? This seems tougher than the physical endurance.

There is a particularly arduous race called the Western States 100-Mile Endurance Run where they say you run the first 50 miles with your legs, and the next 50 miles with your mind. One thing that can't be discounted is experience. Through taking on new challenges and constantly pushing yourself further, you learn that you are more capable than you think. Having that knowledge helps you mentally, especially when the going gets tough, and it always does. (more laughter)

Running marathons and ultramarathons can be very risky, especially if you don't follow your training on a daily basis. Factoring can be very similar, with people becoming lax or skipping things when working with clients on a day in, day out basis. How do you stay committed to the daily routine and stay committed to your training system?

By making impeccable standards a habit in everything you do, even the smallest and most mundane tasks. Such practices carry over into larger projects, so it is important to maintain your standards no matter what the setting or the circumstance.

You've trained for many, many races, and probably helped some people train. Any tips for training our employees to be well prepared and ready to run the marathon that can be a career in our industry?

My advice would be to view the process as a journey, not a destination. Learn to enjoy and make the most of the journey. The destination will naturally come if you maximize the trip along the way.

When training for an ultramarathon, how many calories are you eating on a daily basis?

I use a formula of 500-700 calories burned per hour of output. So if I run for ten hours that's an additional 5,000 to 7,000 calories on top of my basal metabolic rate (BMR) of 3,000 calories a day. Some of the runs I do are upwards of 30 hours. If you do the math, you can see that the numbers add up pretty quickly!

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How Do We Work Together to Stop Overregulation?

BY JEFF ROSE, CFO, NATIONAL BANKERS TRUST

We all love to read about the ridiculous laws and regulations in America. Whether it is shutting down a child's lemonade stand for not having a permit or making the railroads paint an "F" on the front of locomotives, we laugh at the stupidity of our government and the people we elect to represent us. However, when you start looking at the economic impact of all those insalubrious laws and regulations, it might make you cry.

Not all laws and regulations are bad. In fact, many laws and regulations are essential to safeguarding our society. None of us would be in favor of abolishing the law that allows us to file liens against our clients in order to conduct our factoring business. In fact, without such laws, factoring could not exist.

The problem with most government regulations is they tend to make things more complicated and costly. A study by the Small Business Administration found regulations cost American businesses \$10,585 per employee. This estimate is from a study released in 2010 for the year 2008. The total price of federal regulations on the economy was \$1.75 trillion in 2008. One can only imagine what today's regulation price tag is.

It has been widely reported that the start of 2014 was the launch date for 40,000 new federal, state and local regulations. Are you fully aware of the new regulations that affect you? The Dodd-Frank Act has added 14,000 pages of new regulations, while ObamaCare has added 13,000. And neither Act has been fully implemented, so expect those numbers to grow.

Politicians never seem to repeal old laws and regulations. As such, the volume of laws and regulations always expands with a greater potential for conflicting issues to arise from competing laws and regulations. Lawmakers seem to believe they can legislate for every conceivable situation. This lack of humility from our elected representatives can lead to the creation of merely annoying rules or rules which are completely delusional. In the attempt to prevent abuses or injustice, we simply create loopholes to jump through.

When you combine this arrogance of regulation with lobbying, there is a huge incentive for special interest groups to gain an unfair advantage. This myriad of regulations allows legislators and regulators to benefit from the favors granted to special interest groups. When legislators pass laws which

have not been read before voting, it is not hard to slip in special items for the benefit of campaign donors. For example, Obamacare contained numerous favors for special interest groups in order to secure the passage of the act.

With this environment unlikely to change, it is more important than ever we remain vigilant as an industry. Whether regulations come as the result of the government specifically targeting factoring or simply because of a poorly written law or regulation, the results are the same. Factoring needs the AFA in Washington to make sure our voice is heard. If you are not currently supporting the AFA, please take this opportunity to become a valued member: AmericanFactoring.org. •

Founded in 2009, to provide a unified voice for the factoring industry, the AFA is dedicated to promoting and protecting the interests of the factoring community. The AFA board is made up of volunteers who devote time and their own funds to travel to Washington, D.C. on behalf of the factoring industry.



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American Funding Solutions LLC
Brookridge Funding
BTB Capital Corp.
CapFlow Funding Group
Cash Flow Financial LLC
Chesapeake Bank
Commonwealth Capital
Concept Financial Group
Firmco Business Funding, Inc.
G Squared Financial, LLC
Gateway Trade Finance, LLC
Jencks & Jencks, P.C.
Lyon Capital Corporation
Pivotal Funding Group, Inc.
QC Capital Solutions
RMJ Capital, Inc.
SevenOaks Capital Associates, LLC
The Interface Financial Group

Other (Under \$500)

Commercial Finance Consultants
Downtown Capital Partners, LLC
Keystone Capital Funding
Pipeline Financial Services, LLC

what's new at ifa



Our Preferred Vendors have undergone a screening and evaluation process. When you contact the Preferred Vendors, you will need to indicate that you are an IFA member to receive your benefit.

If you offer a good or service to the Factoring Industry and are interested in applying for Preferred Vendor Status, please contact the IFA at 805-773-0011.

CERTIFIED EMAIL

RPost

RPost's Registered Email services allow factors to end disputes attributed to missing, misplaced or denied receipt of notification emails for notices of assignment, notices of default, borrowing base certificates, and other important notifications. It also helps speed invoice collections with proof of invoice delivery irrefutably starting the accounts receivable aging clock.

www.rpost.com/ifa

IFA Members receive a \$10 discount per 100 pack. Also, the first order from each company will be doubled.

CONSULTING

12five Consulting

12five Consulting provides technology and social media consulting to the commercial finance industry. Born out of its sister company, 12five Capital, 12five Consulting understands the technological needs of the commercial finance industry, as it was their application of these tools that lead to their expertise. 12five specializes in software optimization, cloud computing implementation and social media representation.

Phone: 630-270-3072 • www.12five.com

Email: ryan@12five.com

IFA Member Benefit: One free hour of initial phone consultation

FactorHelp

FactorHelp has come to be regarded as the factoring industry's premier resource provider. Their manuals, in use on every continent of the world, are setting the industry standard, and their reputation as the one-call solution for factoring problems is growing. By consistently introducing innovative, viable products, vigilantly cultivating an extensive alliance of Strategic Partners and providing the professional expertise demanded of an industry leader, FactorHelp strives to maintain its goal of providing the unparalleled service the factoring industry expects from a solutions partner.

Phone: 972-722-3700 • www.factorhelp.com

Email: dwilson@factorhelp.com

IFA Members receive a discount of 10% on their consulting fees and 5% discount on all FactorHelp products in the IFA store.

CREDIT

Ansonia Credit Data

With over 150 factors and growing, Ansonia Credit Data is the leading provider of affordable business credit reports. They understand the unique needs of ABL/Factoring companies. With no set-up or annual fees, Ansonia's reports feature real-time access to a global database on companies of every size, industry and market segment. Whether you're looking at a company in the USA, Canada, Mexico or beyond, Ansonia credit reports are priced at a low \$8 with a substantial discount offered for participation in our A/R data exchange.

Phone: 855-ANSONIA • 855-267-6642 x.103
www.ansoniacreditdata.com

IFA Member Benefits: Free VIGILANTE™ Portfolio Analysis. Try Ansonia's unique new program for monitoring credit portfolio risk. Call today to receive a comprehensive review of your entire portfolio.

Credit2B

Credit2B is a transformational cloud-based platform that combines third party credit information with what we call the Intelligence of the Community™, that is a network of the thousands of leading credit professionals and credit grantors that have a common interest in accessing better credit information about their trading partners. Our mission is to provide our clients better, timely, more relevant and highly accessible credit information at incredibly affordable prices. We do this through a compelling solution that leverages the power of peer network intelligence, quality bureau data, and advanced computer analytics to create an unparalleled experience.

Phone: 201-714-4514 • www.credit2b.com

IFA Members receive free trade reports in exchange for AR data. Also receive free bankruptcy notifications & preferred rates for collections - 15% contingency fee.

Dun and Bradstreet (D&B)

D&B is your source for the best business insight in the world. D&B's global database contains the deepest, broadest, most rigorously quality-assured business insight available, covering more than 210 million businesses worldwide. With this insight, D&B has been enabling companies to Decide with Confidence™ for more than 170 years.

Phone: 973-605-6344 • Website: www.dnb.com

IFA Member Benefits: New & Returning customers: receive DISCOUNTS off D&B solutions. Discount is for IFA members that are not current D&B customers or have been gone for a period of one year. Existing customers: receive discounts on other D&B solutions not under contract. (ie: Hoovers, Supply, DNBI Modules)

Experian

Experian is the industry leader when it comes to credit information on small to medium sized companies.

Phone: 973-285-4856 • www.experian.com

Email: Jacqueline.Faitoute@Experian.com

IFA Members receive Experian business credit information at a special reduced rate

Transcredit

CREDIT SCORING is one of the most important financial tools that you can use to make sound, yet prompt business decisions. At TransCredit we know just how crucial this data is to keep freight in motion across the USA. In 2011, more than 93 million loads were rated by our Credit Score & Days-To-Pay™.

Phone: 800-215-8448 • www.transcredit.com

Email: winston@transcredit.com

IFA Member Benefit: Receive a discount of 50% or more. Score your portfolio through Bayside's Cadence Factoring Software or directly with Transcredit.

CREDIT CARD PROCESSING

ePaymentAmerica

ePaymentAmerica is the nation's leading provider of merchant services for the factoring, A/R financing, and P/O financing industries. They offer IFA members exclusive VISA, MasterCard, American Express, and Discover pricing, a discount on their virtual gateway, and a discount on PCI Compliance Certifications.

Phone: 901-385-5335 • www.epaymentamerica.com

Email: chunt@epaymentamerica.com

IFA Member Benefits: 2.15% Processing Rate! \$20 off monthly fee! \$70 off PCI Compliance Certification!

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Phone: 704-341-8700 • www.agilityrecovery.com

Email: salesupport@agilityrecovery.com

IFA Member Benefits: 5% discount to each respective client's monthly ReadySuite membership fee.

FUNDING

RMP Capital Corp.

RMP Capital Corp. is a best-in-class provider of Rediscounting Lines of Credit to Independent Factoring Companies with portfolios from \$250,000 to \$3,000,000. Understanding the needs of the Independent Factoring Company is the driving force behind a funding program which has helped clients build their operations and grow their portfolio. With over 10-years of industry experience, RMP Capital Corp. prides itself on taking the time to understand its client's needs, which helps its clients realize their potential and achieve their goals. From providing capital to providing support, RMP Capital Corp has the solution for you.

Phone: 631-738-0047 • www.rmpcapital.com

IFA Member Benefits: RMP Capital Corp. will pay your IFA membership yearly dues.

MARKETING

50 Words Marketing, LLC

50 Words is a marketing outsource firm for companies that either do not have a marketing department or that need to add more manpower to their existing marketing team. They serve as your dedicated marketing department.

Phone: 610-631-5702 • www.50wordsmarketing.com

IFA Member Benefits: IFA Members will receive five free hours of marketing services with the purchase of any marketing service. (Offer to new clients only)

PURCHASE ORDER FINANCING

Gateway Trade Finance, LLC

Gateway provides purchase order funding for importers, distributors, wholesalers, and exporters nationwide. They will work with a client's current or perspective factor, ABL lender, bank, and private lender. Gateway can fund 100% of the cost of pre-sold finished goods in transactions from \$25,000 to \$4,000,000. They will do the small transactions and one-off transactions that are not currently funded by their competitors. "Financing Growth for Entrepreneurs."

Phone: 703-548-2882

www.gatewaytradefinance.com

IFA Member Benefit: Gateway will pay a 12.5% referral fee on completed transactions on all deals brought to them by IFA members.

RMP Trade Credit, LLC

RMP Trade Credit is the leading source of small ticket Purchase Order Financing. They do deals from \$5,000 to \$2,000,000 per month. They consider larger deals with participation. RMP Trade Credit closes deals faster than any other competitor. Their staff has over 100 years of manufacturing, importing, and exporting experience to help their clients with their needs.

Phone: 877-340-2388 ext 400

www.rmptradecredit.com

IFA Member Benefit: RMP Trade Credit will offer a 15% commission on all PO deals referred by an IFA member.

RECRUITMENT AGENCY

Commercial Finance Consultants

Established in 2002, CFC is the premier provider of human talent to the factoring industry. CFC's goal is to provide their clients with the best available human capital and the most current industry information to assist in accomplishing their growth potential.

Phone: 469-402-4000 • www.searchcfc.com

Email: dar@searchcfc.com

IFA members will receive an additional 60 days added to the guarantee on all placements.

SOFTWARE

Bayside Business Solutions, Inc.

Bayside Business Solutions is an innovative supplier of commercial portfolio management software that lets lenders manage factoring, invoice discounting, asset based lending, and more on a single platform—CADENCE (formerly FactorSoft). Control more. Monitor More. Lend More. With CADENCE.

Phone: 205-972-8900 • www.baysidebiz.com

IFA members will receive 10% off license fees and add-on modules. For IFA members who are currently Bayside customers: Free one day refresher course, per year, at Bayside's training facility in Birmingham, AL.

FactorFox

FactorFox Cirrus is a cloud application for factors, their clients, brokers, lenders, and others who enter or access data. Entries can be made and reports accessed from any internet-connected computer, tablet, or smart phone. As a web-native program, there is no extra cost for setting up your account or to access your data; further, you receive three hours of free training online. FactorFox's various versions make it suitable for nearly any size factor.

Phone: 866-432-2409 • www.factorfox.com

Email: jeff@factorfox.com

In addition to the one-month free trial for everyone, IFA Members receive an additional two free months for a total of three free months to try the complete program.

TAX COMPLIANCE

Tax Guard

Tax Guard is the only tax compliance company in the U.S. that works with lenders to expose credit risks in real-time before it becomes public information. Unlike a traditional public record search for federal tax liens, Tax Guard utilizes a proprietary, patent-pending process, providing due diligence and tax monitoring reports to lenders across the United States.

Phone: 303-955-3282 • www.tax-guard.com

IFA Members will receive a 20% discount on the same-day due diligence order.

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Vocalocity is a cloud-based voice solutions provider with services and support especially tuned to help businesses grow. Vocalocity ensures higher quality conversations through proprietary technology that differentiates its service from traditional Voice-Over IP (VOIP) providers. With cloud-based connectivity, businesses can work from anywhere while enjoying features that deliver large enterprise visibility and functionality. Vocalocity's cloud-based PBX enhances customer satisfaction, and delivers exceptional business intelligence and flexibility. Vocalocity PBX uses the customer's current broadband connection to transport calls over the Internet to deliver superior voice quality and reliability.

Phone: 888-244-8939 • www.vocalocity.com/IFA

IFA Members receive 25% discount off Each Monthly Unlimited Extension, and either: 10% off On-Demand Call Recording or 10% off Company Call Recording. Or, buy Voicemail Transcription, Get On-Demand Call Recording free.

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This is a premier luxury sedan service that offers private transportation with experienced professional drivers. Whether you are heading to the airport, a business meeting or social event, ExecuCar will get you there safely, in style and comfort.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with ExecuCar at www.execucar.com. Use the following Discount Code: CLLMC

SuperShuttle

SuperShuttle is the nation's leading shared-ride airport shuttle service, providing door-to-door ground transportation to more than 8 million passengers per year. Their friendly drivers, comfortable vans and reasonable rates take the hassle out of getting to and from 33 airports in over 50 US cities and surrounding communities.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with SuperShuttle at www.supershuttle.com. Use the following Discount Code: CLLMC

UCC SEARCH

First Corporate Solutions

First Corporate Solutions is a full service public records provider specializing in the research, retrieval and filing of public records nationwide and internationally. Their services include industry standards such as UCC, lien and litigation searching, UCC and corporate filing services, nationwide registered agent coverage and real property title searching, as well as unique solutions such as state and county account monitoring designed specifically for Factors.

Phone: 800-406-1577 • www.ficoso.com

Email: daves@ficoso.com

IFA members will receive a 10% discount off of the retail rates of their signature state and county account monitoring product.

IFA Conference Speaker

Continued from page 20

Favorite running shoes?

I am sponsored by a company called The North Face, so I use their shoes. The favorite running shoe for you should be the one that fits you best.

Favorite pre-race meal?

I'm a big fan of Greek-style yogurt. I usually have a bowl of yogurt with some almonds and a sliced banana or some berries. That seems to do the trick! •

IFA CALENDAR OF EVENTS

MARCH 4

Luncheon Meeting with NYIC
Arno Ristorante, New York, NY

APRIL 9

Portfolio Management Training Class
Westin St. Francis, San Francisco, CA

APRIL 9-12

2014 Factoring Conference
Westin St. Francis, San Francisco, CA

JUNE 23-24

Law and Business of Factoring
Planet Hollywood, Las Vegas, NV

JUNE 26-27

AE-LO Training
Planet Hollywood, Las Vegas, NV

JULY 14-15

Meeting for Women in Commercial Finance
Paris, Las Vegas, NV

SEPT 11-12

Transportation Meeting
Omni Nashville Hotel, Nashville, TN

OCTOBER 13-14

TBA
Planet Hollywood, Las Vegas, NV

OCTOBER 16-17

Credit, Collections & Underwriting -
The Art of Getting Paid
Planet Hollywood, Las Vegas, NV

OCTOBER 27-28

Small Factors Meeting
Planet Hollywood, Las Vegas, NV

FOR DETAILS ABOUT IFA EVENTS,
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Analyzing Debtor Credits in 2014

Whatever your outlook, one thing is certain: how sharp your tools are when evaluating the creditworthiness of account debtors will determine whether your company thrives or barely survives in today's highly competitive marketplace.

BY KATHLEEN DASAL

"The expectations of life depend upon diligence; the mechanic that would perfect his work must first sharpen his tools." – Confucius

Some in the factoring community are cautiously optimistic that in 2014 they will continue to see a modest increase in portfolio growth. Others, particularly in the transportation and staffing industries, worry that a stagnant marketplace, continued heavy competition, and price pressures could have them hanging on with razor-thin margins. Whatever your outlook, one thing is certain: how sharp your tools are when evaluating the creditworthiness of account debtors will determine whether your company thrives or barely survives in today's highly competitive marketplace.

It perhaps comes as no surprise that an ancient philosopher's remark would speak so well to the timeless importance of due diligence in business, whatever your industry sector or position in the creditor/debtor chain. One critical tool in creditors' due-diligence arsenal has long been the business credit report. It began well over a century ago with merchants who kept notes on customers' ability to pay their bills. While the core objective of

the credit report hasn't changed, the fast-evolving analytics and risk-score modeling that today's most advanced reports offer help factors to protect their portfolios by identifying potential debtor credit problems early, accurately, and often.

Past and Present

Credit managers historically have relied heavily on the traditional credit report. However, they have long found it challenging to negotiate and control the steep costs associated with the traditional credit bureaus. Factors, with their tight margins, cannot always afford to manually pull expensive reports. Almost all manual credit-check procedures are becoming passé, as credit professionals simply do not have the luxury to spend costly hours, if not days, phoning or faxing debtor-provided references, only to end up with biased or inaccurate insight on character and payment experience.

Credit professionals also clearly understand that the age-old industry problem of invoice fraud isn't going away anytime soon, and that manual procedures to catch and prevent it are ineffective. For example, debtors planning to commit fraud almost always

attempt to pass along files with the so-called "references" they provide to credit bureaus. This can be costly and hamper creditors' ability to respond quickly in today's competitive environment where factoring clients expect nearly instantaneous decisions. Indeed, the very success of accounts receivable factoring largely depends on expedient decision-making, and it is because of this that unscrupulous debtors often gamble that credit managers will rush and skip critical document verification steps, putting their companies at great risk.

To overcome these and other challenges, factors in recent years have been forming peer-to-peer social networks for exchanging detailed insights and analysis of their trade experiences. Participants in a factoring network share common customers/account debtors and challenges in areas such as risk management and cash-flow optimization. However, relying solely on payment experiences within one industry has proven risky. This is because the payment experiences reported are one-dimensional and lack important insights and information on trends and issues in other industries that could affect the factoring community.

Automation is Key

In 2014, creditors will continue to recognize that they need to add a combination of a peer community and an automated, supercharged version of the traditional credit report to their toolbox. With more factors sharing their data with reputable credit agencies, the agencies know who your customers are and can quietly and continuously survey your debtors, reporting back when payments trend slowly, and notifying you of any trigger events so that you can take proactive measures to protect your portfolio. The best credit reporting today allows factors to review and monitor average payment histories and trends from broader, more robust sources of fresh information, provided instantly, 24/7.

A best-of-breed credit reporting service provider offers business owners and credit professionals a new way of managing debtor and fraud risk, payment practices and cash flow, and features original, current, and days-to-pay information collected directly from the accounts receivable departments of small and large factors, and other companies across all segments. Factors should look for services that provide a complement of advanced algorithms, push technologies, and manual updates to scrub and verify data, not weekly, not once a day, but continuously.

The best of reports generated from this process feature:

- Trade experiences configured to show the last three, six, nine or twelve months.
- Ability to compare average balances and days-to-pay against all companies and industries reporting, including against other factors. This includes the ability to highlight notable trends as they emerge, which allows users to predict – rather than react to – potential credit issues.
- Access to a fully customizable database to select credit score, risk score, days-to-pay and other data points for internal reporting or as a service to customers needing to monitor their accounts.
- Access to a fast and flexible credit alert system for receiving instant email warnings about active clients' significant events. Importantly, the best alert systems can prompt factors to revise their collection strategy, reduce debtors' credit limit or place them

on a watch list to better gauge their creditworthiness. User-contributed information can be shared with other users who can select which credit, payment and collection alerts to view and who receives them. Alert fields and types can also be configured to the needs of different departments. Alerts can include: bankruptcy filed; fraud account; judgment filed; nonpayment complaint; ownership change; returned check; slow pay; and write-off.

Factors also have been turning to credit report providers for the portfolio monitoring tools many offer. Because factoring is among the most labor-intensive of any lending option, companies are always seeking ways to streamline their portfolio management. One new tool that has evolved for guarding against bad credit risk allows entire portfolios – via monthly or weekly data contribution – to be monitored using a combination of flexible selection criteria and database sorting technology. Credit managers still find an occasional need for a single credit report, but they increasingly are finding that data contribution provides for the more complete benefit of “sweeping” a company's existing accounts receivable portfolio for adverse trends, high concentrations (compared to others), or potential Ponzi schemes in incubation.

To further save clients time and money, credit bureaus now interface online with major software packages, allowing for the automatic storage and integration, or sharing, of real-time data with highly scalable factoring software for analyzing risk, tracking commissions, and meeting their overall financial goals. By combining capabilities in a single platform, users can decide a debtor's creditworthiness without having to switch between multiple applications. What's more, factoring companies can also choose to extend the bureau's continuous, 24/7 credit reporting capability as a service to their clients using the online interface, helping them to increase their own decision-making and productivity.

Tools like these represent the significant and growing shift from traditional credit risk evaluations that require personnel to manually sift through data and analyze for trending changes with each query. Advanced portfolio monitoring technologies replace these costly steps, not by eliminating the human element, but by enabling

employees to be more focused and effective.

Sharpening the Tools

In light of these and other technological advances, factors have begun to wean themselves from the archaic model in which conventional credit reporting agencies take their data, compile it, and then sell it back in the form of high-priced reports about well-maintained buildings on Main Street or the college credentials of company executives. Rather, these professionals have told me in recent years, that the best solution for them is a low-priced alternative with current and concise information for easily identifying payment trends, better managing portfolios, and consistently collecting on invoices.

Without a doubt, these are still challenging times for creditors and debtors alike. But with diligent preparation and updated tools – sharpened tools – everyone can benefit. In 2014 and beyond, affordable, automated, and accurate technologies for reporting and sharing information on how creditors get paid and how debtors pay them, will continue to provide for new levels of transparency that can only strengthen IFA members and the entire factoring industry over the long term. •



Kathleen Dasal is the CEO of Ansonia Credit Data, a leading commercial credit reporting company dedicated to

providing customers with the most accurate and affordable business credit reports available so they can improve their risk management, credit practices, and cash flow, and automate decision-making. Ansonia maintains a global database on companies of every size, industry, and market segment. Kathleen, who brings nearly four decades of experience to the commercial financial management industry, worked at Orange Commercial Credit before co-founding Ansonia Credit Data with Anthony Kinninger in 2006. Kathleen can be reached by phone at 855-ANSONIA (267-6642), ext.101, or by email at kdasal@ansoniacreditdata.com.

A Factor's Primer for Credit Insurance

One of the biggest challenges factors face in their business is making sense of credit insurance. Credit insurance is a policy which the factor purchases to protect itself against the insolvency of an account debtor. If the account debtor fails to pay due to an Insolvency Event within the meaning of the policy, the insurer is supposed to pay the factor. An Insolvency Event is a long defined term in the policy, that essentially requires the account debtor file for bankruptcy, enter into an assignment for the benefit of creditors, be in a receivership, file a formal state law dissolution proceeding, or take some other official act designed to wind down the account debtor's business due to insolvency. However, many companies which go out of business do not file a formal dissolution proceeding, but instead close the business and walk away. This type of "walk away" insolvency may be included as an addition to the policy and is normally called a Protracted Default. Credit insurance is often used to insure against a large account debtor not paying, to facilitate an international transaction, or to increase availability for a rediscount line.

One of the most common misconceptions factors have regarding credit insurance policies is a reluctance to submit a proper claim for fear that premium rates will rise. While this logic certainly makes sense for auto or homeowners policies, because the act of making the claim supports the inference that the insured is accident prone, and rates will justifiably increase, the true nature of the credit insurance business does not support this belief. In theory, the credit insurance company has financial analysts who assess the creditworthiness of the account debtors. The factor purchases the account based upon the insurer's credit analysis. Presumably, the insurer has set up reserves to account for the inevitable claims when they are wrong. When the insurer learns about negative financial news relating to any

account debtor, it will put that account debtor on its "do not buy list", which means the insurer will not cover claims against that account debtor. Therefore, if there is any "fault" in submitting a claim, it lies with the insurer because it bet wrong on the account debtor. If the insurer raises the factor's rates in response to a claim, the correct response is for the factor to vote with its feet and move its business.

The typical credit insurance policy contains a number of "gotchas" which, if not known, will result in the insurer pulling coverage. Among some of the common things to look for is payment history. Most policies will have a clause which prohibits the factor from purchasing accounts if the account is aged over a period of time, some as low as 45 days, which, for the most part, is inconsistent with the factoring industry and most factor clients. Careful attention should be paid to credit limits for account debtors. If the factor goes beyond the credit limit for a particular account debtor, coverage can be pulled. Attention should also be paid to altering credit terms for account debtors. The credit insurance policy should be carefully reviewed to address the "gotchas". Unfortunately, this is harder than it sounds. Credit insurance policies typically are composed of several sections and rely heavily on multiple definitions. A person reviewing the policy will feel like she's in a pinball machine being bounced around between the sections and definitions. In fact, lawyers who specialize in insurance law typically have their own method of reviewing the policy by honing in on sections and not by starting at the beginning and reading to the end.

Getting paid on a valid claim is often difficult. Insurers have been known to dig in their heels and delay payment, all in the hopes of finding that the account is in dispute. A dispute within the meaning of a credit insurance policy is very similar to the dispute defined in a factoring agreement.

Just about anything can be a dispute. Account debtors having financial issues will frequently return a large portion of their orders because they cannot pay. In order to overcome the insurer's dispute defense, careful attention must be paid to details as to when the goods were ordered, when the goods were delivered, whether or not the goods were delivered within the confines of the agreement between the factor client and the account debtor, and what happened after the goods were delivered. Under Article 2 of the UCC, if the buyer had an opportunity to inspect the goods, and maintained possession of the goods, or used them, then the buyer's/account debtor's conduct reflects acceptance of the goods. Some insurance policies, and most policies which cover a Protracted Default, require that the factor sue the account debtor and obtain a judgment. (A few policies may even require some judgment collection effort.) However, companies often operate for a period of time while insolvent or in a Protracted Default. If the account debtor is insolvent, but not yet ready to walk away from the business, it often hires counsel to defend the lawsuit. In many instances, the mere filing of an answer, which will include garden



Steven N. Kurtz, Esq. has represented factors, banks, and asset based lenders on a continuous basis since 1987, and

he is the Co-general Counsel to the IFA. A founding partner of Levinson Arshonsky & Kurtz, with offices in California and Oklahoma, he practices in the areas of commercial law, insolvency, workouts, loan documentation and trade finance, in both transactions and litigation matters. He can be reached by phone at 818-382-3434 or by email at skurtz@laklawyers.com.

variety defenses, triggers a dispute. The answer to the complaint done solely to delay will usually cause the insurer to consider the goods to be a dispute and coverage is pulled. In many instances, the business realities do not mesh with the policy language, which renders the Protracted Default coverage worthless and makes it easy for the insurer to find a dispute to offset the Insolvency Event.

Let's assume that a covered account debtor has an Insolvency Event, which turns out to be a bankruptcy filing. Bankruptcy filings often result in preference lawsuits against anyone who received a payment from the account debtor within 90 days of the bankruptcy filing. Most credit insurance policies do not address preferences, and those that do discuss preferences never protect or indemnify the factor from a preference lawsuit. Thus, while some accounts may be covered under the policy, the factor is on its own in a preference case. If the policy mentions preferences, it will only cover a preference if there is a preference judgment against the factor or the factor pays a settlement approved by the credit insurance company. The factor will be contractually obligated under the policy to defend the preference case or risk having coverage pulled because the factor will have jeopardized the insurance company's rights. The factor will have to pay for counsel to defend the preference case, hire experts, and can never settle a claim without the insurance company's consent. This leaves the factor in a vulnerable position where it is under the insurer's control, where in past instances, which this writer has seen, will demand that the factor take positions which are not supportable and increase the cost burden on the factor by defending the preference case when it should settle.

What are the factor's remedies when the credit insurer refuses to pay on a valid claim or requires the factor to defend a preference case that the factor could normally settle within the limits of the policy? This is known as insurance bad faith. In many jurisdictions, insurance companies can be held liable for punitive damages if they act in bad faith. This is because insurers have a fiduciary relationship with their insureds which requires them to pay proper claims and settle a case when there is liability within the policy limits. Many credit insurance policies contain a mandatory arbitration provision with the arbitration to take place in New York City, presumably before a friendly arbitrator. These arbitration provisions should not be enforceable, but have to be

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Matthew Panosian	864 527-1402 (U.S.)
Fred Moss	514-846-4250 (CAN)
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Robert Setzer - Capital Partners, Inc.



®GAAP: The common set of accounting principles, standards and procedures that companies use to compile their financial statements. GAAP are a combination of authoritative standards (set by policy boards) and simply the commonly accepted ways of recording and reporting accounting information.

Ask us how *Factoring-Plus* handles all of that!

Risk Management

Continued from page 19

investigated company and its related entities. According to the complaint filed in a related civil action found in the U.S., SEBI cited the subject's departure from the company as an exculpatory factor in its decision not to bring charges. Other issues found include over \$9 million in open judgments payable to financial institutions, and pending civil actions alleging that the subject grossly misrepresented and omitted material facts regarding a company acquisition. Although searched only in the U.S., references to additional off-shore cases against the subject were also found.

The bottom line is that fraud is on the increase and is a constant consideration, and, according to the 2012 Report to the Nations, perpetrators with higher levels of authority (such as the owners and management of a company) cause much larger fraud losses (four times as high as by lower level managers). It is prudent to do everything possible to uncover fraud, credit, and character issues, before a lender's or factor's money goes out the door. •

LegalFactor

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determined on a state-by-state basis.

One alternative to credit insurance is refactoring. A refactoring contract is when one factor agrees to factor another factoring company's accounts. Refactoring agreements are typically "non-borrowing" where the refactor does not make advances, but, in exchange for a factoring fee, provides credit protection to the factor by assuming the economic risk of the account debtor's financial inability to pay. Most refactoring agreements let the factor operate independently and impose few restrictions beyond addressing the refactored accounts. Most factors who do refactoring have strong credit skills from doing non-recourse factoring and are better than insurance companies at paying insolvency claims. Also, in a refactoring arrangement, the refactor client is not normally caught in a preference. If the refactor gave its credit approval to the account debtor and purchased the account, the refactor normally steps up and handles the preference cases and the refactor client typically has a defense where it can point to the refactor as the person who owns the account and received payment. While the fees for the refactoring contract

may be higher than some credit insurance premiums, when faced with the hidden costs and with factoring companies having a better track record of paying claims, a refactoring arrangement may be preferable to credit insurance. For international deals, the export factor works with the import factor who refactors the foreign account debtors' invoices, much like domestic refactoring.

It often seems that in order to be afforded coverage under a credit insurance policy, the claim has to take place on the first Tuesday of the month, provided that there was a full moon. Careful attention needs to be given to credit insurance policies before they are purchased. Because of the market nuisances, which are known mainly to insiders, it is recommended that the inexperienced purchaser use a reputable and skilled broker who can negotiate around the "gotchas", find the best insurance company, and move the policy if needed. It's also time for the factoring industry to take a stand against the insurance companies, which is the only way this problem can be addressed. Careful attention should also be given to alternatives to credit insurance as well. •

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Platinum Partners Credit Opportunities Fund ("PPCO") is an asset-based investment fund providing loans to markets that are underserved by traditional sources of financing. PPCO is active in the trade finance marketplace, providing warehouse lines to established factoring and purchase order finance companies while also working directly with a variety of businesses to provide the capital necessary to finance the purchase or manufacture of their products.

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Carnegie Hall Tower, 152 West 57th Street 54th Floor, New York, NY 10019

Tel: (212) 634.5276 Fax: (212) 581.0002

Email: alpha@platinumlp.com



20th Annual IFA Conference

It's almost time for the 20th Annual Factoring Conference (April 9-12), which will be held right in the heart of San Francisco, at the famous Westin St. Francis hotel, overlooking Union Square. With over sixty top-notch speakers, an exhibit hall full of vendors, plenty of networking events and activities to choose from, there's something to inspire everyone.

Whether you want to learn about Best Practices for Portfolio Management, stay abreast of current trends in Asset Based Lending, have questions about Succession Planning, or wonder what factoring is like in Canada, Asia, or Latin America, we've got you covered.

If you're curious about Transportation Factoring, Reverse Factoring/Trade Payable Financing, Credit and Underwriting, Working with Brokers, or the Collateral Field Examination Process, look no further!

The 2014 conference's most buzzed about speakers include:

Jeffrey Ma, President and CEO of

TenXer, and a member of the infamous MIT blackjack team, Ma will discuss teamwork and innovative metrics in a way that will make you reevaluate how you assess talent, find undervalued assets, and measure the true worth of your business.

Dean Karnazes, speaker, author, athlete, and entrepreneur was named one of the "Top 100 Most Influential People in the World" by TIME magazine. An acclaimed endurance athlete and NY Times bestselling author, Karnazes has pushed his body and mind to inconceivable limits.

Dr. Christopher Thornberg is founding partner of Beacon Economics, LLC and widely considered to be one of California's leading economists. He was one of the earliest and most adamant predictors of the subprime mortgage market crash that began in 2007, and of the global economic recession that followed.

Patrick Renvoisé, President of SalesBrain, will discuss neuromarketing and what you need to know about the brain of your customers to find their buy button. Neuromarketing merges neuroscience with marketing to help target the part of the brain that drives

buying decisions: the reptilian brain. This new science will help you create messages your customers will notice, understand, remember, and value.

No matter how you choose to fill your days, be sure to find your way to the Grand Ballroom for the Welcome Reception on Wednesday night. If you're a new member of IFA, you'll be invited to a special reception beforehand, where you can meet other new members, board members, and sponsors, and learn about the conference.

While there are plenty of panel discussions, roundtables, speakers, sessions, and receptions to keep you busy without ever having to leave the hotel, San Francisco is full of opportunities for you to explore. After learning about everything from Factoring Fraud in Latin America to the Power of Analytics, take a break from note-taking and networking to enjoy an unforgettable dinner in North Beach's Little Italy or take in a show in the world renowned Theater District, only a block from the conference hotel. If you prefer jazz or comedy, there's a club for you. In San Francisco, chances are, if you like it, you can find it. See you at the conference! •

CFAE Exam

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Remember, we're certifying individuals, not companies, so the person taking the test is the only one who needs to know. A power outage at the ISO testing center always makes for a good diversionary story.

Different factors do different kinds of business. How much do you need to know about all the different factoring niches?

Almost nothing. While there may be a few questions regarding transportation, staffing or construction factoring, most questions relate to general factoring principles.

Is the exam just for account executives? Is it worthwhile for factoring professionals with responsibilities other than portfolio management?

The designation is called "Certified Factoring Account Executive" out of recognition that client-facing staff might benefit most from public certification. But again, this exam is all about general factoring principles. So

yes, depending on a person's experience and training, the certification can be equally applicable to underwriting, credit and collections staff.

Would you recommend the CFAE for business development officers?

Probably not. It's more focused on operations than sales, although factors with a sales staff large enough to support sales management positions might find it valuable for those senior individuals.

Any last test-taking hints you can share with me?

Bring a non-programmable calculator and get a good night's sleep.

Assuming you pass the exam and meet the other requirements, will you get a CFAE certificate suitable for framing?

Yes, a big one.

How about initials after your name?

Yes, you're entitled to publicly represent yourself as a CFAE and you will be given logo artwork to use on business cards or your company's website.

How about a ribbon for your

nametag at the annual IFA conference?

You'll have to ask Bert about that. I can't make any promises.

Well, there you have it. If you have reason to be reading the Commercial Factor, you've got at least three reasons to sit for the CFAE examination. You'll help raise the bar for professionalism and knowledge within the factoring industry. The heavy lifting is already done, and it's been done very, very well. It would be really great if you joined us. •

Steven Hausman, CFAE, is president and CEO of Advance Business Capital, a member of the Triumph Bancorp group. Steve currently serves as an IFA Advisory Board member.

Darla Auchinachie has been an advocate for the factoring industry for more than 20 years. She is a regular educational speaker for the IFA and has been a key contributor to the CFAE project from the onset. Recently, Darla accepted an SVP position at TBS Capital Funding, a division of TBS Factoring.

Credit Trends From Both Sides of the Deal

One of the most important aspects in closing any new factoring deal is approving the credit quality of the account debtors. At the end of the day, these are the folks that will be paying you for the invoices your client has decided to factor. As important as stable credit is for the account debtor, our position has always been to apply an equal amount of due diligence on the client as well.

Let's start with applications and client trends. Without sounding overly optimistic, our position has been more favorable than that of years past, but we do remain cautious. The same current economic climate that has created opportunities within the asset based lending industry can also be your worst enemy. Unfortunately, many businesses needing factoring services have taken some tremendous hits over the last few years. We have seen industry declines in apparel, transportation, manufacturing, and staffing, to name a few. On the other side of the coin, we are seeing many new applications from technology, energy, security, and construction. No matter what side of the political spectrum you reside, the uptick in home values over the last few years has played a key role in our economy. By October 2013, home prices in twenty US cities rose by the most in more than seven years, indicating the real estate rebound will continue to bolster household wealth in 2014. So what does all of this have to do with asset based lending? The increased wealth is expected to cause individuals to buy more, which means companies will experience higher revenues and can potentially hire more workers. Our opinion has always been

"THE KEY QUESTIONS THAT NEED TO BE ANSWERED ARE NOT JUST WHEN THE COMPANY WENT DOWN, BUT HOW AND WHY IT HAPPENED."

that companies experiencing growth will always need additional cash flow to fill new orders and keep up with customer demand.

Credit issues have many different faces, but we feel it generally falls back from the hangover of the great recession of 2009. So often, we are seeing applications where the owner or partners had experienced a recent bankruptcy and are trying to take a stab at the business again. This is where your due diligence procedures are worth their weight in gold. The key questions that need to be answered are not just when the company went down, but how and why it happened. Was the cause the poor management within the organization, a sudden decline in sales, or some

other unforeseen occurrence? Here are some key steps every factor should take when evaluating a prospect:

- Run current credit reports on your prospect. There are numerous credit reporting agencies you can utilize that will provide as little or as much as your budget can afford.
- Gather the most current quarterly and year-end financial reports available. If the client has audited financial statements, read the auditor's notes to the financial statements. Also, look for trends on both the balance sheet as well as the profit and loss.
- Request the last two years of business tax returns for both the federal and state returns, including payroll tax filings. If necessary, also request personal returns of the owner and/or majority shareholders.
- Check with the state where the business is domiciled to see if they are in "Good Standing." If a business is not in "Good Standing" or "Suspended", it usually indicates they are delinquent with their annual reporting requirements, have not paid their taxes, or have some other form of dispute with the state.
- If the prospect is required to maintain a license to conduct his or her



Don D'Ambrosio is the president of Oxygen Funding, Inc., an invoice factoring company located in Lake Forest, California. Don has over 25 years experience working in the commercial and residential finance industries. He previously served as Controller of a commercial insurance agency and as Chief Financial Officer of a publicly traded mortgage company. He can be reached by phone at 949-305-9300 or by email at

don.dambrosio@oxygenfunding.com.

trade, check with the local licensing board to see the license is current. If the license is suspended, you may not have a valid claim against the debtor in the event of a dispute.

- Run a UCC-1 search to see if there are any liens against the business. This is extremely important since you, as the factor, will always want to be in first position on all collateral. In some cases, there may be another UCC-1 financing statement already in place. This is not necessarily a negative indicator, as the prospect may have an existing loan with a bank or equipment financing with another lender. In some cases, the other secured party may subordinate their filing to allow you to be in first position on the prospect's accounts receivable.

Account debtor quality varies depending on the industry. For us, the biggest challenge remains in the evaluation of privately held account debtors. Although credit reports furnish ample information, the quality is not as robust as what you will find with publicly traded companies. We've found that recent payment trends and DBTs (days behind terms) fluctuate even among the largest capitalized firms. If you have a hostile account debtor that is unwilling to work with a factor, think twice about moving forward with the prospect. First and most importantly, you will not have the ability to verify your clients' invoices. For us, there is nothing more important than verifying your clients' goods or services have been accepted and approved for payment. Without proper verification, you are basically gambling on an invoice, hoping that it will be paid.

A colleague of mine compared the due diligence process to putting together a puzzle that never gets fully completed. You try to get as many pieces of the puzzle to connect in order to form a clear enough picture to move on to the next step. In the race to get every deal funded, you will find many factors will try to slow the process for very good reason. Unlike banks and other secured lenders, factors advance cash to qualified clients based on a piece of paper in the form of an invoice. Sure, the returns are high, and so is the risk. So next time the factoring company asks for some more information to get the prospect qualified, understand it's not always the first one to finish the race that comes out the winner. •

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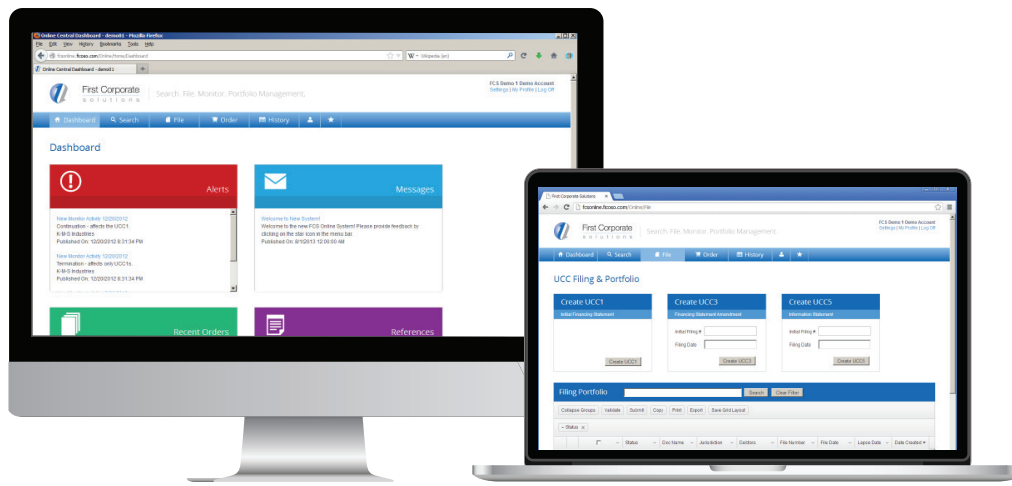
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