

A PUBLICATION OF THE INTERNATIONAL FACTORING ASSOCIATION

# COMMERCIAL FACTOR

March/April 2012 • VOL 14/ No. 2



## 2012 IFA SPRING CONFERENCE

### HUNTINGTON BEACH, CA

#### **ALSO INSIDE:**

**Industry Education & Advocacy**

**The U.S. Senate's Transportation Bill**

**State of Export Financing**

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# table of contents

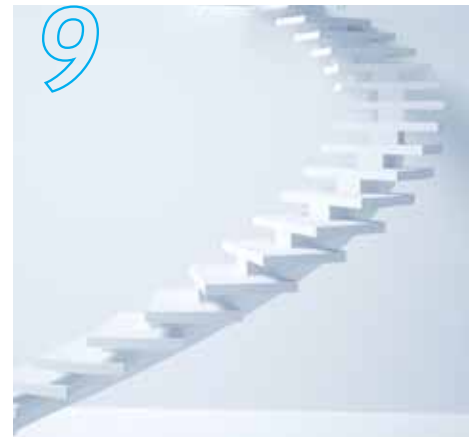
March/April 2012 • VOL 14 / No. 2



- 9** **INDUSTRY EDUCATION AND ADVOCACY IN ACTION**  
Q&A with Allen Frederic, Jr.
- 11** **THE UNITED STATES SENATE'S TRANSPORTATION BILL: GOOD OR BAD FOR THE FACTOR?**  
By David Jencks, Esq.
- 15** **THE STATE OF EXPORT FINANCING**  
An Interview with Ian Varley
- 19** **MODERN FACTORS STANDARDIZE FOR THE ELECTRONIC COMPETITIVE EDGE**  
By Zafar Khan
- 26** **WHAT'S NEW AT IFA**
- 31** **HOW TO RESPOND TO A PREFERENCE DEMAND LETTER**  
By Bruce Akerly, Esq.
- 35** **TIGHTENING THE GRIP: HOW THE IRS IS PURSUING FEDERAL GOVERNMENT CONTRACTORS**  
By Jason Peckham, Esq.

## columns

- 22** *IFA members making a difference* **DONALD BARRICK**
- 24** *sales and marketing* **THE PERFECT SALESPERSON**  
By Thomas G. Siska
- 34** *an inside look* **JERRY SMITH AND TAB BANK**
- 38** *legal factor* **HIDDEN LIENS AND TRUSTS: THE PACA TRUST PROBLEM**  
By Scot Pierce, Esq.
- 42** *small ticket factor* **POINTS OF INTEREST FOR SMALL FACTORS**  
By Jeff Callender



## ADVERTISER INDEX

3i Infotech.....	36	Health Capital Investors .....	Inside Front Cover
Accord Financial.....	32	Hennessey Capital.....	10
AeroFund Financial .....	14	IFA .....	25 & 32
Bayside Business Solutions .....	12	International Trade Finance .....	17
Capital Software.....	33	King Trade Capital.....	37
Corporation Service Company (CSC).....	39	Platinum Partners .....	23
CT Lien Solutions .....	8	RMP Capital Corp.....	21
eFactorPay .....	5	Smyyth.....	16
Factor Fox .....	43	Sterling National Bank .....	18
First Corporate Solutions .....	Back Cover	TAB Bank .....	13
Gibraltar Business Capital.....	7	Utica Leaseco .....	33
Harborcove Healthcare Finance.....	20	William Stucky & Associates.....	30



*As I write this opening message, the number of attendees for the 2012 annual conference has just surpassed the attendance from last year.*

The growth in both the factoring industry and the IFA has been incredible. We have over 390 active members and have signed up 40 new members in the first three months of 2012. As these numbers indicate, there are many new companies entering into the factoring industry, but there are also many companies that dropped out. The fallout is due to a number of reasons, but trending still indicates that the factoring industry continues to grow.

The IFA continues to support the factoring industry by enhancing and expanding our services to our members. Some of the new products that we are releasing:

- **Mentor Program** – The goal of the Mentor Program is to link individuals that are experienced in the factoring industry with those individuals that are new to factoring. Mentors can then assist the newer factors, showing them how the industry operates. This is done with the objective of teaching best practices and helping the entire industry.
- **Training Courses** – The IFA is again running a number of training courses to assist factors. We are offering a wide range of courses designed both for those brand new to the industry and also a specific meeting for the experienced professionals. You can find a complete list of our upcoming training courses on page 26.
- **Certification Program** – The IFA is working to elevate both the knowledge base of those within the factoring industry and the public's perception of the factors. By creating a certification program, we are establishing a minimum base of knowledge for account executives. The first round of the test will be released during the second quarter of this year.
- **Social Media** – The IFA is offering to members the most sophisticated social media platform available. This system allows IFA members to communicate with each other regarding issues within the factoring industry, post blogs, read the latest factoring news and is designed to be a complete resource for the commercial finance industry.
- **Preferred Vendor Program** – The IFA has added six (6) new vendors to our preferred vendor program in 2012. Preferred vendors are companies that offer either discounts or superior services to IFA members. You can find a list of our preferred vendors on page 28.
- **American Factoring Association (AFA)** – The AFA continues their support of the factoring industry through various meetings in Washington DC with policymakers. These have been important in helping to keep the factoring industry operating as an excellent source of financing for businesses throughout the USA.

Thank you for your continued support of the IFA.

## COMMERCIAL FACTOR



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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](mailto: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 [info@factoring.org](mailto:info@factoring.org), or call 800-563-1895.

**PERSONNEL  
ANNOUNCEMENTS**

**Bayside Hires LaPaglia, Tech Services Project Manager (PHOTO)**



Danielle LaPaglia has joined Bayside Business Solutions, Inc. She will serve as a Technical Services Project Manager, responsible for new-client implementations, training, implementation of additional add-on modules, and general technical support.

**Solomon Joins Crestmark as AVP / Business Development**

Crestmark announced the addition of Kaitlin Solomon, assistant vice president, Business Development, to the Crestmark team. She will work as a part of Crestmark's growing South region, out of the Baton Rouge, LA office. She will be located in, and responsible for supporting the Houston, Texas regional area.

"I look forward to watching Kaitlin develop into a strong business development force. She will be a real asset as we continue to expand our bandwidth providing working capital solutions to small-to mid-sized businesses in the busy Houston, Texas area," said Pat Haney, Group president, South Region.

**ACCFL Names Epstein Becker Green Attorney a Fellow**

The law firm of Epstein Becker Green announced David Tatge has been selected as a fellow of the American College of Commercial Finance Lawyers (ACCFL). He will be inducted on March 24 at a dinner held in Las Vegas.

**INDUSTRY TRANSACTIONS**

**King Trade Capital Announces \$10 Million to US-Based Exporter of Refined Oil**

King Trade Capital announces a new client relationship providing over \$10 million to a US-based exporter of refined oil to save them from losing millions of dollars of business. KTC was introduced to the client through a well-known international bank after the client's previous bank relationship was affected by the banks' tightened lending practices. They were able to quickly develop an export finance solution which will support the purchase of oils from several refineries so the company can ship and fill their growing customer demand in India.

**PrinSource Closes \$3.5 Million Facility to MN Call Center**

PrinSource Capital, a subsidiary of North Mill Capital LLC, has closed a \$3.5 Million factoring facility for a customer service call center located in Minneapolis, MN.

**Porter Capital Corporation Closed Jan 2012 with Over \$9 Million in Funding**

Some of the factoring lines totaling \$9.1 million are: \$50,000 a/r facility to a temporary staffing company located in Methuen, MA; \$75,000 a/r facility to a temporary staffing company in Jersey City, NJ; \$150,000 a/r facility to temporary staffing company in Atlanta, GA; \$175,000 a/r facility to a temporary staffing company in Mahwah, NJ; and \$200,000 a/r facility to a temporary staffing company in Fort Lee, NJ.

**North Mill Capital Announces Funding**

North Mill Capital LLC is pleased to announce the funding of a \$7.5 Million Accounts Receivable and Inventory Credit Facility for Reitnouer in Pennsylvania.

The credit facility will be utilized to provide working capital. North Mill Capital LLC acted as agent to fund the transaction along with Capital Business Credit LLC.

**Crestmark Provides \$13 Million to 22 Businesses in February**

A sampling of these transactions include:

- Crestmark's Franklin, TN office provided a \$900,000 accounts receivable purchase facility to an Indiana trucking company.
- The West Palm Beach, FL office provided a \$1,000,000 ledgered line of credit to Pennsylvania and Virginia manufacturers of custom wood products.
- Crestmark's Troy Michigan office provided a \$750,000 ledgered line of credit equipment financing to a Michigan manufacturer of automotive and aerospace parts.

**Gibraltar Closes \$1 Million Facility**

Gibraltar Business Capital has closed a \$1M factoring facility to a company

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## Condolences to the Passing of IFA Advisory Board Member Bob Sawyer & Memorial Fund Information

The Factoring Community has suffered a tremendous loss with the sudden death of Bob Sawyer a former Factoring professional with Bibby Financial (among others), whom had retired a few years ago; he was also a valued member on the IFA Advisory Board.

To honor and continue his legacy and passion, both his family and friends at the Junipero Serra High School in Gardena, California, where he served as a loyal, hardworking and passionate board member, have established the Bob Sawyer Memorial Fund for Tuition Assistance. The family has requested that in lieu of flowers, financial contributions be made in his honor to:

*JUNIPERO SERRA HIGH SCHOOL  
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Gardena, CA 90249-3799*

providing loyalty programs that reward users of mobile, internet radio and television stations. The facility was closed in less than 2 weeks from the initial inquiry and is being used to assist the company with their aggressive growth plans in the market.

### Wells Fargo Capital Finance Provides \$5 Million Facility

The Purchase Order Finance Group at Wells Fargo Capital Finance, part of Wells Fargo & Company (NYSE: WFC), recently provided a \$5 million facility to a California-based a distributor of audio and video broadcasting equipment.

### Republic Business Credit Closes \$2 Million Receivables Purchase Facility

Republic Business Credit announces a \$2,000,000 receivables purchase facility for a Mississippi based equipment distributor.

### Federal National Payables Provided Ten Working Capital Facilities

Bethesda, MD. Federal National Payables, Inc. recently closed ten accounts receivable lines, totaling \$5.3 million. Some of this current activity includes the following accounts receivable facilities:

- \$1.2 million for an IT solutions firm;
- \$800 thousand line for a start-up health services company;
- \$750 thousand line for a software products and services company;
- \$750 thousand line for a provider of professional and integrated IT services;
- \$650 thousand line for a provider of project management and cost analysis support.

### Brookridge Funding Announces the Completion of \$3.4 Million of Facilities for Seven New Clients

Brookridge Funding announces the recent completion of \$3,650,000 of funding facilities for seven new clients: Included above are Purchase Order funding lines of \$1,600,000, \$500,000 and \$300,000 for three Government resellers, introduced to Brookridge by their factors, who will be retiring the purchase order fundings out of their initial advances on the government receivables created after the merchandise is delivered.

## INDUSTRY NEWS

### Gibraltar Business Capital Acquires Greenfield Commercial Credit

Gibraltar Business Capital LLC, a leading provider of asset based loans and factoring solutions for small and medium sized businesses, has acquired Greenfield Commercial Credit LLC, a provider of working capital financing solutions and asset based loans in the Midwest. Gibraltar will now have resources in Chicago, New York, Houston, Los Angeles, Detroit, and Atlanta focused on providing asset based loans and factoring solutions to borrowers seeking financing of \$100,000 to \$5,000,000.

### Universal Funding Corp. Announces Renewal of Funding Facility with Sterling Bank

Universal Funding Corp., a leading provider of professional accounts receivable-based funding in the United States and Canada, has finalized a renewal and expansion of its current financing facility with Spokane, Wash. based Sterling Bank. The facility is a renewal of a credit facility first entered into between Universal Funding and Sterling in 1998.

### United Capital Funding Corp. Announces Renewal of Funding Facility with First Tennessee Bank

United Capital Funding Corp., a provider of professional Accounts Receivable based funding and credit management solutions, has finalized a renewal of its current financing facility with Memphis, Tenn. based First Tennessee Bank, a subsidiary of First Horizon National Corp. (NYSE: FHN). The senior-secured facility is an early renewal of a credit facility first entered into between United Capital and First Tennessee in 2006. •

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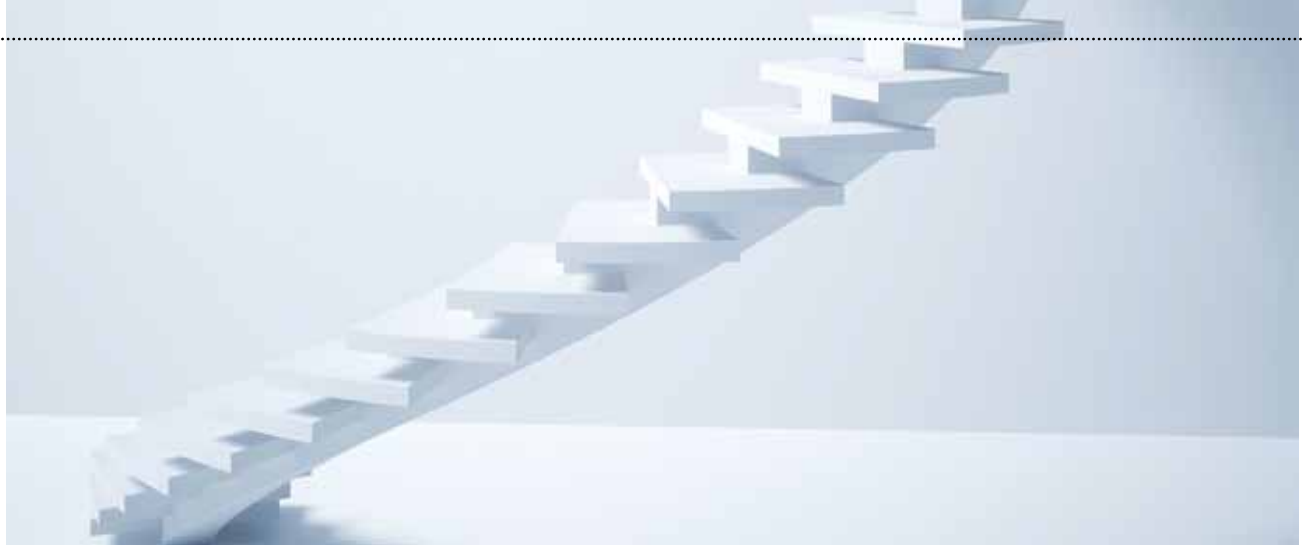
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# Industry Education and Advocacy in Action

Q&A with Allen Frederic, Jr., CEO, Republic Business Credit

Some people talk about moving mountains, others do it; take Frederic for example, who has over 40 years of combined finance experience. He's served on factoring committees, led training courses, lobbied Congress, you name it—Frederic has made a true impact on this industry.

**What has your experience in AFA been like thus far? Why/how did you get involved?**

I've been the President of AFA for 3 years. I became involved when Bert Goldberg encouraged me to help out with this new organization aimed at advocacy efforts for factors and factoring associations. It has been eye-opening to see Washington, D.C. politics in this light. To observe how the process works and the opposing views in Congress has been influential and memorable. Both parties have different sides to the issue of regulation of finance institutions.

It has helped me to appreciate the views of big government/big regulation AND smaller government/less regulation. I now appreciate that both groups are passionate about their side. What is difficult to appreciate is why they can't find a middle ground.

**What have you learned over the years in banking, finance and now factoring finance that helped to create your view of how our economy is recovering?**

**How do you see it specifically affecting the factoring industry?**

I've seen changing business cycles, inflation and recession, expansion and contraction of the economy. While this is the longest recession that we've experienced in quite awhile, my experience has taught me that there is always a recovery around the corner; we just don't know where that corner is.

There are signs of recovery, although it appears to be slow. There are positive signs in transportation, jobs, capital investment and revenue growth within specific industry groups. However, as a part of the global economy, there are fears of the debt burden of European countries and the potential slowdown of certain Asian economies.

**You have served in many industry committees. What were some of your accomplishment there? What type of factoring professional should join committees?**

The experience has been rewarding! I've been able to work with the IFA and along with many other professionals

help launch the IFA factoring schools (training courses). Also, I've moderated both training courses and panels for the IFA and CFA.

My greatest accomplishment is a sense of teamwork in helping foster our industries educational efforts. From a personal standpoint, the reward of meeting a number of wonderful people and seasoned professionals was a tremendous opportunity.

Any factoring professional who has a passion for the business should become more involved.

**What trends for this year and next can you predict/care to predict?**

Hopefully we see the business cycle continue to rebound in a positive direction. As an industry we will see more competition, more new players in our space, and introducing new credit products.

**What about challenges in the marketplace?**

Our greatest challenge has always been the balance between an aggressive

growth strategy and risk tolerance. In the recent recession we saw significant fraud and debtor issues. Going forward, we face greater competition, hence the need to achieve our growth objective while maintaining sound credit judgment and controlling cost to create a superior return for our shareholders.

**What is the greatest obstacle in the industry that you've overcome or what do you see as a big obstacle today?**

Education. Educating people about the positive benefits of factoring. For so long factoring has been the "f" word, with more negative connotation than positive. Yet, in other parts of the world, factoring is much better understood, more popular and plays a larger role in financial markets.

**What are you most looking forward to at the 2012 Factoring Conference? (Other than beautiful Huntingdon Beach of course!)**

I'm greatly looking forward to networking with my colleagues and

getting their answers to some of the questions I've been asked. It's especially interesting to get viewpoints from those in different geographies and those that finance different industry sectors.

**Of the various places you've lived do you prefer the southwest or where you now**



In Jan 2011, Frederic along with Stuart Chesters, the former CEO of Bibby USA started Republic Business Credit. Frederic is currently President/CEO and a Director of Republic Business Credit. He has nearly 18 years of factoring experience at Gulf Coast Business Credit as founder and President/CEO and previously at KBK Financial (now Marquette) as Senior VP. At Gulf Coast, Frederic took this from a start up operation to a top 25 U.S. factor and one of the largest Southwest based factors. At KBK he oversaw the New Orleans and St. Louis operations from start up. Prior to this he had over 20 years of commercial banking experience, with his last assignment as President/CEO of a New Orleans Bank. Frederic served 3 terms on the board of the International Factoring Association and chaired the Presidents Council (Industry Leadership Conference). He is a Director of the Commercial Finance Association and chaired the Entrepreneurial Finance & Factoring Committee, also serving on the CFA's Executive Committee. He recently supplemented his strong industry leadership by becoming President of the American Factoring Association which is the factoring industry's lobbying association. Allen earned both his Bachelor's degree in business and MBA from Louisiana State University. Allen can be reached at [afrederic@republicbc.com](mailto:afrederic@republicbc.com) or 866-722-4987.

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# The United States Senate's Transportation Bill: Good or Bad for the Factor?

The United States Senate passed its surface transportation bill on March 14, 2012. The Bill (S. 1813) deals with a tremendous amount of transportation related issues. There is no clear answer on whether the Senate's legislation will be helpful or harmful to the Factor. **BY DAVID JENCKS, ESQ.**

The United States Senate passed its surface transportation bill on March 14, 2012. The Bill (S. 1813) deals with a tremendous amount of transportation related issues. The Bill is commonly known as "Map-21" or "Moving Ahead for Progress in the 21st Century Act". At its core, the Bill funds our nation's transportation and infrastructure projects. However, as with most federal legislation, many amendments were added to the Bill. Senate majority leader Harry Reid (D.,NV.) brought as an amendment certain language that had been previously discussed in the House of Representatives concerning the regulation of freight brokers and freight forwarders.

Buried on pages 1246 through 1259 of the 1676 page Bill, the Senate has more heavily regulated the freight broker and freight forwarder, and their surety. The primary piece of this additional regulation is raising the minimum financial security a broker and forwarder must carry from \$10,000 to \$100,000. This financial security may be in the form of a bond and/or a trust fund, in a form and amount determined by the Secretary of the Treasury to be adequate to ensure financial responsibility. The Federal Motor Carrier Administration (FMCSA) will likely administer the registration and monitoring of adequate financial responsibility.

The Bill as passed also requires that each surety issuing such bonds be approved by the Secretary of the Treasury and that the surety consent to the administration rules of each claim. The last major component of the Bill is that every 5

years the Secretary of Treasury will review the amount of financial security required for brokers and forwarders to determine whether the current amount is sufficient. Further, the Secretary of the Treasury is authorized by the Bill to raise the financial security requirements.

As you might remember from civics class, a bill cannot become a law until it passes both houses of Congress. This Bill has not been passed in the House and therefore is not law. However,

Speaker John Boehner has indicated that it will take up the Senate's transportation bill for debate. Pundits believe the debate will begin in April of 2012. At the time of writing, the House has not scheduled debate. However, the House is under considerable pressure from a wide range of special interests to do so.

Transportation related accounts make up approximately 22% of all purchases by International Factoring Association members. Transportation is the single

largest sector from which IFA members purchase accounts. Therefore, an examination of how raising the broker and forwarder financial security requirements will affect the Factor is valuable.

It may appear at first blush that an increase in the financial security requirements is a positive thing for the factoring industry. The financial security each broker and forwarder is required to carry is "available to pay any claim against such broker or forwarder arising from their failure to pay freight charges under its contracts, agreements, or arrangements for transportation." (*S.B. 1813 at page 1248, 1254*). As a significant portion of the Factor's account debtor base, more available funds from which to seek recovery for non-payment of freight bills appears to be a positive. As any transportation financier knows, the current \$10,000 bond is typically exhausted before the factor can recover,



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or the bond is paid on a pro-rata basis in such small amounts the monetary recovery from the bond is negligible.

But before the Bill is declared to be a good deal for factors, an economic analysis of the Bill's potential affects is important. Increased surety levels mean increased costs in operations. Surety products and their costs are influenced by market demand, and it is possible a surety will require higher premiums and significant collateralization before the issuance of a larger bond. That collateral may be something the broker or forwarder does not have or cannot raise. If the broker or forwarder either has to pay too much for the bond, or simply cannot secure one based on the surety's underwriting standards, the broker or forwarder cannot operate and will be out of business.

If the broker or forwarder cannot operate, the transportation industry loses a portion of its account debtors of whom motor carrier clients need and want to factor. A smaller and less diverse account debtor base may very well reduce the demand for the Factor's services. Will the motor carrier have the same need or desire for your services if its account debtor base is smaller and consists of larger, more established, more credit worthy, faster paying account debtors? A reasonable economic argument is that higher barriers for the small and new broker or forwarder to enter, or stay in, the marketplace reduces the number of account debtors whom the motor carrier needs or wants to factor. Fewer freight intermediaries could also negatively affect freight rates and invoice size through less competition.

Another economic issue is whether surety companies will want to consent to the approval, monitoring, and bond administration rules required in the Bill. It is possible and reasonable that a surety will pass altogether in issuing

license and permit bonds to transportation intermediaries in order to avoid regulation and unfavorable bond administration rules. Under the Senate Bill, a surety must: 1) respond to claims within 30 days following a notice; 2) set forth in writing for each claimant the grounds for denial; 3) pay [Claimant's] attorneys' fees in any action against in which it successfully recovers against the surety; 4) provide notices of cancellation of all bonds to the Secretary of Treasury; 5) publicly advertise for 60 days the notice to cancel the financial security; 6) pay within 30 days all uncontested claims; 6) be subject to civil actions and penalties for failure to follow any of these rules.

The high level of administration, risk of payment of attorneys' fees, even in good faith disputes, the costs in public notification of surety cancellation, and the risk of civil actions and penalties may cause sureties to avoid the transportation marketplace altogether or price accordingly. This, combined with increased bond amounts, could drive bond premiums and collateralization

requirements of remaining participating sureties higher.

There is no clear answer on whether the Senate's legislation will be helpful or harmful to the Factor. It seems from this author's viewpoint that the legislation may be helpful on some isolated collection actions but harmful to the larger market in that the number and type of potential account debtors whom the motor carrier will want or need to factor will be diminished. •



**David Jencks, Esq.**, is an attorney and consultant specializing in working with factors

and asset based lenders serving the transportation industry. He can be reached at 605-256-0121 or davidjencks@gmail.com

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Stephen K. Troy graduated from the University of Miami in Florida and holds a degree in business administration/finance and history. He is the founder, owner, and chief executive officer of AeroFund Financial, a national finance company specializing in providing secured lending. He lives in Los Gatos, California, with his wife and three children.



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# The State of Export Financing

## An Interview with Ian Varley

Managing Director, Bibby International Trade Finance

### **What are the most recent developments in International Trade Finance?**

A. In the U.S., the conversation has shifted from massive companies that traditionally export to small to medium-sized businesses that are less experienced with exporting. The National Export Initiative, announced in the 2010 State of the Union address, is fueling the increased interest. The Initiative set the ambitious goal of doubling U.S. exports by the end of 2014 in order to grow the economy and create new jobs. Regardless of political leanings, this initiative has lit a fire under the official export credit agency of the U.S. government, the Export-Import Bank (Ex-Im), which is now producing more programs to help small business export goods.

For example, its Working Capital Guarantee program is aimed at exporters, but in my experience I've found it's hard for them to qualify and take advantage of it.

### **What types of companies do you come across that need export financing?**

A. We've seen anything and everything in terms of the variety of products and services that are exported. They generally fall into two types: Mature, experienced companies that rely on international markets and what I call 'accidental' exporters. Accidental exporters are companies that are unlikely to grow into full exporting businesses because they are just looking for funding to fill an opportunistic international order. Most of these companies don't have the capital or the knowledge to develop that

export market. However, the resources of the SBA and Ex-Im, combined with factoring, can definitely help some of these 'accidental' exporters transition into more mature exporting companies.

'Mature' export companies tend to have more knowledge of working internationally, but there is often a way we can help them minimize their risk or speed up the collection of their AR.

One of our clients, for example, is a ten-year-old manufacturing company that distributes to Malaysia and Singapore. Nearly 50% of its debt is foreign. The management staff has global experience in manufacturing, distribution, finance, marketing and sales. They formed the relationships needed to generate orders abroad to grow their business. Along with providing cash flow, we've helped this company minimize its risk by tracking its goods and alerting them if there are any customs issues holding up delivery. This knowledge helps them keep their AR rotating smoothly.

Another client distributes seasonal apparel to more than 25 countries. Once a year, we provide them with a \$2 million combined purchase order and

factoring facility to enable them to ship goods internationally and domestically. Our European offices collect the majority of the debt, so collections are made in the same language their debtors speak.

### Did the Recession affect the market?

Yes and no. The financing process hasn't changed and the types of inquiries we receive have been consistent. We still help companies that have an importer and exporter component taking control and ownership of goods. In that sense, it is business as usual.

However, a depressed local market caused some small and medium-sized businesses to look to international markets as an answer to their woes. That works well for companies with products that are in high demand abroad.

The biggest change we experienced during the Recession was the increased difficulty in purchasing international credit insurance. The major credit insurance companies clamped down when the loss ratio was going through the roof. We are just now starting to see

improvements in this with the obvious exceptions of certain risky markets like Greece, Portugal and Italy. The credit insurers have recovered much of their losses and they are more open to underwriting higher limits faster. There is more competition again between the credit insurance companies to deliver policies at an attractive rate.

### Has the market become more attractive to factoring companies?

It is easier for a company like ours to offer an export financing product because we have a global presence we can leverage. For domestic factors it is a bit of a risk and arguably one that they don't need to take yet to find new business.

I do see some factoring companies testing the waters on the back-end of the availability of credit insurance. Some companies are getting creative and providing more flexible solutions to help clients export. In general, I believe the industry wants to support these businesses but export factoring is still a niche product.

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## What are the key markets for exporting?

At Bibby Financial Services we have debtors in over 120 markets but typically our U.S. clients are exporting to Canada, Europe, and South America; Brazil is also very popular right now. There is also interest in the Far East since it is growing and people want to capitalize on that growth. There are other emerging economies businesses are starting to consider now due to the availability of credit insurance. For example, it is possible to insure debt to Sub-Saharan Africa, which opens that region to businesses that previously might have avoided it due to concerns about the ability to collect.

## What are the main obstacles a small to medium-sized company faces when they begin exporting and how do you overcome them?

Time and language barriers are usually the top concerns, but confusion about the rules and a lack of knowledge is also a big issue. We tap into our global

network of offices so we have someone who speaks the language and is calling on the debt in the correct time zone. We also use our locations to manage payment internationally—so when a European business pays an invoice for a U.S. client, the payment goes into a European bank account and it is credited the next morning to their U.S. Bibby account. That way our client isn't waiting on an international payment. We also talk our clients through their paperwork and help them make changes so they are assuming less risk. Typically, factors would help a client avoid risk problems by understanding their business and relying upon their experience. Companies should expect factors to ask these types of questions: How did they find their customers? What countries do you sell to? What are the terms of sales? How do you ship your products? Do you use a freight forwarder? What currencies do you invoice in? Do you have a local agent to liaise with your customer and generate sales? What paper work do you have to ensure your transaction will proceed through customs?

All of these questions avoid problems. We have about 800 clients with export debt and a broad knowledge of different markets so we can often steer the client clear of hidden pitfalls. •



**Ian Varley** helps companies grow by taking the financial stress out of exporting goods. As Managing Director of Bibby International

Trade Finance, he is known for his ability to cut through the red tape and intricacies that accompany this powerful opportunity for small and medium-sized businesses. Ian also runs the company's Transportation and Purchase Order Finance operations and oversees FreightCheck, which offers fast and easy solutions for small trucking companies. Ian has been with Bibby Financial Services since May, 1999. Previously, he ran the Bank of Scotland's export factoring division and worked in the retail sector for Barclays Bank. Ian can be reached at [ivarley@bibbyusa.com](mailto:ivarley@bibbyusa.com) or 678-385-9660



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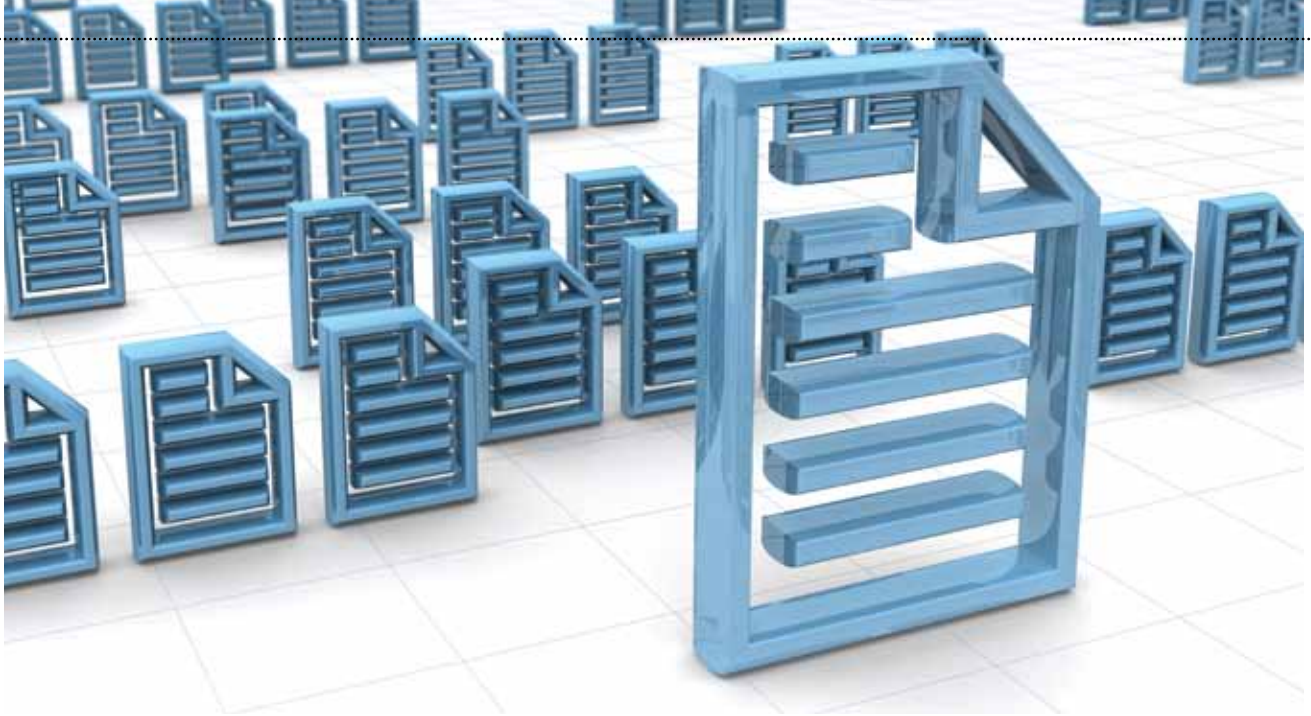
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# Modern Factors Standardize for the Electronic Competitive Edge

Moving to electronic methods for legal notices and electronic signoff seem like an obvious efficiency. Industry leaders have transformed their businesses; and industry software now makes it easy. **BY ZAFAR KHAN**

Moving to electronic methods for legal notices and electronic signoff seem like an obvious efficiency. Industry leaders have transformed their businesses; and industry software now makes it easy.

However, many have hesitated or, if not using the right methods, have exposed themselves to liability that could put their business in jeopardy.

Let's take a closer look at the issues that all factors should consider when moving from paper, fax, and mail to email and e-signatures.

## Why Legal Electronic Records?

No one wants to move to electronic methods and, after the fact, learn that their records of notice delivery or signoffs are not legal or can be easily defeated in a challenge. For factors, understanding the legal electronic landscape of their financial transactions becomes even more complex, as the business of factors is categorized as a specialized type of financing.

For example, one legal document for

the industry is chattel paper, which shows both a debt and a security interest in specific goods, and parties secured under it must make sure any changes to the authoritative copy are readily identifiable as an authorized or unauthorized revision. Factors are required to send official transaction notices and maintain detailed delivery records to prove notices were sent and received, and when. Most factors rely on fax, courier, and certified mail to send important communications, and they retain all relevant fax confirmation slips and mail receipts to prove delivery in case of dispute. The process is often frustrating, expensive, time-consuming and fraught with inefficiency.

Some of the most common notices and records that factors need to maintain in a manner that is irrefutable as to time, content, level of legal delivery, proof of electronic original, or fact of signoff, are the following: (1) Invoice delivery and start date of invoice aging; (2) Notices of assignment; (3) Bidding correspondence, who said what to whom and when; (4) Default notices, and (5)

Signoff of asset value verifications.

For these records, when maintained in electronic form, a factor must maintain proof in a manner that is verifiable, with high evidential weight, maintaining their ability to be authenticated to withstand challenge to court admissibility and with ability to reconstruct the electronic original with all forensic transaction details.

## Special Considerations for Factors

Now, consider the challenge for factors; the state Uniform Electronic Transaction Act (UETA) and the Federal Electronic Signatures in Global and National Commerce Act (ESIGN) have deferred decisions on certain areas of law which were capable of being guided by the Uniform Commercial Code (UCC). For factors, UCC Section 9 is one such example; and UCC Section 9 governs many factor transactions — meaning some factor transactions are not governed by UETA and ESIGN.

Considering this, to understand the

legalities of conducting factor transactions using electronic means, one should look at both procedural law and substantive law to make the determination as to whether the electronic services used to record the transaction could be used for unsecured (i.e. accounts receivables) and secured (i.e. chattel paper) financial factor transactions.

Under procedural law, the rules of evidence apply. What this means, is that if a recipient were to deny

having received an email notice (i.e. a notice of assignment for example), one would need a record that could withstand challenges to admissibility into evidence in court. As such, they would need a record that they were assured could withstand such challenge to admissibility; a record that could be independently verified and self-authenticated in terms of the precise uniform time that the notice was sent and legally received – which would constitute the time of sending, or proof

of sending, and meet the UCC requirements of providing notice under the “mailbox rule”.

Under substantive law, UCC Section 9 requires that if the transaction is a secured transaction (i.e. chattel paper), then not only is a record of the legal time of notice important, but also one is required to manage the transaction documents in a “control” form, locking down the document in a manner to determine original, associated content, tamper detection, etc.

For a factoring company, one would further want to ensure that electronic correspondence would withstand challenge.

### Why is Standard Email not Good Enough?

In the Corporate Counsel Guide, author Stanley Gibson, a partner, Jeffer Mangels, reports the most important email misconceptions as:

**1. Printed email:** A printed email can easily be denied admission into evidence by simply challenging content authenticity, time of sending, or whether the email was delivered at all.

**2. Email copy:** A copy of an email sent to yourself or another person has no bearing as to whether a copy was also delivered to your intended recipient.

**3. Electronic archive:** Electronically stored copies of email in an archive of the sender or recipient only provide a record of what the archiving party ‘claims’ to have happened, not whether or when the email was delivered.

**4. Bounce notices:** Reliance on bounce notices provide a false sense of security – most recipient servers turn off bounce notices. Therefore, if the sender does NOT receive a bounce notice, they certainly cannot rely on that to demonstrate successful delivery.

**5. Denial of email reception:** Litigators can simply point to public research and claim their clients never received the email or request the sender to authenticate that the email was in fact received. Ferris Research, a leading messaging analyst, reports, “3% of non-bulk, business-to-business Internet email goes undelivered to its intended recipient.” How do you prove that your critical email notification was not within than 3%?

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## What has the Factor Industry Standardized on for Legal Electronic Records of Notice and Signoff?

Both Bayside Business Solutions' Cadence FactorSoft and FactorFox have built RPost® into their platforms; both RPost's Registered Email® service and RPost electronic signature services.

"RPost's Registered Email service receipts provide admissible evidence of Registered Email message delivery, official time sent and received, and authenticity of message content. By utilizing RPost services, we would also argue, not only is the email admissible, but the authentication of its content and context may lend it greater credence than traditional receipted mail, courier, and fax alternatives," according to attorney at Jon Neiditz, a partner at Nelson Mullins. "This is significant not only in adding to the weight of the evidence in general, but because in addition to proving delivery of notices, factors must exercise 'control' over documents such as electronic chattel paper to ensure their enforceability under UCC Article 9. RPost's authentication techniques are likely to meet these 'control' requirements."

Factoring is an information-intensive industry that requires painstaking delivery and management of transaction notices associated with assignment and chattel paper, and until RPost came along hasn't been able to realize fully the efficiencies of email while being legally protected at the same time.

### Enter RPost...

In 2007, the International Factoring Association announced that it was naming RPost as the preferred service



Zafar Khan is RPost's Chief Executive, and has an MBA from The Wharton School at the University of Pennsylvania. Khan has been interacting with factors since 2007 and has been

an invited speaker at International Factor Association events. RPost has pioneered legal email proof, encryption, and electronic signature technologies. Founded in 2000, RPost has 35 patents. RPost does not provide legal advice. Contact RPost for referenced legal guidance documents: info@rpost.com or 310-864-2134.

platform for business-critical communications with clients and debtors.

The RPost solution for factors consists of two components. The company's patented Registered Email service provides legally verifiable and court admissible proof of email delivery, message content including attachments, and official time stamp. The proof is in the form of a Registered Receipt™ email, which contains a digital snapshot of the entire email transaction and can be

self-authenticated within minutes – for proof of notices of assignment, notices of default and borrowing base certificates, etc.

Factors also report Registered Email puts an end to the common "I never got the invoice" excuse for slow-paying debtors, by providing the factor with verifiable proof of when the invoice was electronically received; proof of the invoice aging start date. This empowers

*Continued on page 34*

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# IFA Members Making A Difference

Making a Difference column focuses on the many IFA members making a difference in their communities and in the world. In this issue's Members Making a Difference column, Donald Barrick, President of RMP Capital Corporation, discusses his commitment to LIFE'S WORC.

## Donald Barrick

President of RMP Capital Corporation



## My Opportunity with LIFE'S WORC



RMP Capital President Donald Barrick (second from left) surrounded by his foursome friends (left to right): Sam Kaplan, Andrew Kaplan, and Greg Junge, getting ready to tee-off in a charity golf tournament to support LIFE'S WORC.

I was recently chosen as Vice Chairperson of the Board of Directors of a significant non-profit agency in the Long Island region of New York, which provides extraordinary services to the developmental disabilities community. My introduction to LIFE'S WORC is an example of the ways in which a commercial finance executive like myself can be attracted by a touching request for help. The quality of the work performed by this organization coupled with the passion of their commitment, have become motivational for me to expand my involvement.

About eight years ago, a family friend was the honoree at the LIFE'S WORC annual gala. My wife and I were invited as their guests. The affair was exciting to the point where I was inspired to go beyond the routine of being my friend's guest for the evening. I was impressed that the Board members and supporters associated with this organization were indeed, "movers & shakers" in the Long Island community—a number of whom made a point to come over to me, introduce themselves and express their thanks that I would attend.

Television personality and journalist Geraldo Rivera personally introduced himself that night. He was actually the founder of LIFE'S WORC, somewhat driven by the scandals he exposed through his investigative reporting. In the late 1960's, Rivera uncovered the cruel, inhuman treatment and

neglect that people with developmental disabilities had suffered at the hands of staff in New York government-run institutions.

There was an outcry, a huge public protest for New York's officials to make drastic reforms. Private, not-for-profit agency alternatives like LIFE'S WORC became a solution. As dinner attendees, it registered with my wife and I that here it was years later, and Geraldo Rivera was demonstrating an unwavering faithfulness to this cause and LIFE'S WORC. Certainly, media people like Rivera are often caught up in moving onto whatever is the newest or latest trend. Instead, Rivera's continued presence at LIFE'S WORC proved his devotion and certainly validated the importance of this cause.

Seeing my enthusiasm, within a few months, I was appointed to a board of advisors set up within this agency. This was not their board of directors. Rather, this was an ideal platform whereby I could learn more about the inner-workings and objectives of the operation. I could undertake a modest level of voluntary work to build experience. I, along with the agency executives could mutually determine whether my role would be a good test with the opportunity to expand upon it.

It was smart of these people not to make demands early on that were too aggressive or too ambitious. They merely wanted me to learn more about the agency and communicate this information to other business executives who I may have encountered in my community or in my place of work. As I promoted this awareness, I was building capital where someday I might be able to call upon these people to take some interest in the agency—similar to the way in which it had embraced me.

For example, beyond Rivera, LIFE'S WORC was launched with a group of very dedicated, concerned parents of those with developmental disabilities. I learned that there is a whole variety of categories and levels within these disabilities.

Part of the success in being able to educate and train these people served, has been recognizing these different stages and developing protocols to specifically address each one. Especially within the past several decades, this approach has made a huge difference where many people with developmental disabilities have been enabled to carry out daily living functions, practice independence, and even enjoy opportunities like holding employment, traveling, socializing, or participating in sports.

Within two years, my volunteerism convinced LIFE'S WORC to choose me for their Board of Directors. This further fueled my contribution, with everything from helping to plan and run the agency's golf outing and assisting with their annual dinner. Within my commercial finance firm, many times I am required to review budgets, finances, and credit terms used by clients. So my expertise has been put to good use by this non-profit organization when it comes to analyzing

financial statement targets, efficiencies, cash flow management and all that goes with running an operation with some 800 employees, which provides care to some 1400 people and their families, and which has an annual budget of more than \$40M.

This past fall, I was gratified by putting together a first-time event which will now be held annually—a walk. My wife and I reached out to our circle of family members, friends, and business associates. Our objective was to make this event modestly priced so that those who could not afford to buy a ticket to the high-end annual gala or golf outing, could still help out at a different level. We assembled several hundred people at Eisenhower Park in Long Island, New York, and we raised about \$30,000 in small donations!

The headmaster at the high school where I studied once said to me, "From those who much is given, much is expected." Given the prosperity I have enjoyed in the commercial finance industry through RMP Capital

Corporation, I am most appreciative that I have been able to use LIFE'S WORC as my vehicle to do what I can for people who have come into our world with much less, facing many challenges.

I started out by describing the relatively incidental way in which I became connected to LIFE'S WORC. In our period of economic distress when so many non-profits and charitable groups plead for more support from affluent executives—they would be well-served to look at the wealth of talent, business experience, and leadership skill that business owners from the commercial finance sector would be willing to bring forth. Many times, all this takes is a straight-forward, enterprising "ask". •

Additional information on LIFE'S WORC can be found at [www.lifesworc.org](http://www.lifesworc.org)

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BY THOMAS G. SISKA

## The Perfect Salesperson

“The Perfect Salesperson” is right up there with a lot of great mythical creatures such as Bigfoot, Werewolves, the Platypus, Dracula, the Loch Ness Monster, the Okapi, Mermaids and Komodo Dragons. And like some these mythical creatures, the perfect salesperson can actually exist. Which leads us to the question most often asked of me, “What are the characteristics that make the best salespeople?” And like most answers in life, it ends up with “it depends”.

### Understanding the Situation

While I’ve met a perfect jerk and a perfect idiot (you two know who you are), I’ve never met a perfect person. I have met people who were perfect for a specific task. People certainly have found themselves to be in the right place at the right time (I wish someone would let me in on that). But I’ve never seen anyone that was truly perfect for all situations. There are a rare few that actually come close. I’ve met them. I’ve even worked with them. However, one cannot build a successful sales force by assuming that they’ll turn up every needle in every haystack. The key is to understand how your company interacts with sales and what characteristics would give a salesperson the best chance to succeed given your firm’s approach to new business.

To illustrate this point, I want to start by explaining the opposite. Most every factoring company has, at one time or another, hired a salesperson who was very successful right up to the point when they agreed to your job offer. Then, almost like magic, the seemingly beautiful prince of a salesperson performed like a frog. The hiring authority usually assumes that they were lied to when they inquired about the failed salesperson’s past record. Because there is no way someone could be that successful somewhere else and not be a star now.

Well, in fact, not only is it possible,

but it is sadly, probable. The chances of two situations being exactly alike are zero. So it is a sure thing to assume that circumstances are going to be different with every new hire. When interviewing, it is obviously important to probe and examine the candidate’s personal characteristics. It is less obvious to also probe and examine the previous job characteristics. For you may find that some of the reasons for the salespersons’ good results are in part because of the way their present employer conducts their business. And if you don’t do business that way, you cannot assume the same good results will follow.

There are decidedly two polar approaches to sales in commercial finance. One is to have the salesperson’s role be part of the overall credit process. In this model, the salesperson is responsible for not only developing leads, but also for the initial underwriting of the transaction. Every aspect of the company must be laid open and analyzed. The prospect’s competitive position must be understood as well as the long term trends within their industry niche. Management’s projected business plan is scrutinized to determine if it is realistic and their backgrounds are examined to confirm that they have the experience to deliver the plan. The salespeople will even present the loan request to the Credit Committee.

The other school of thought is to have the salesperson kick up the dust and present as many opportunities as possible for the credit department to independently process. The prospect must be sized up to ensure that it

“fits the box”, but a deep dive into the bowels of the credit is not necessary. Still, a complete underwriting package is essential to determine the commitment on the part of the applicant as well as to make the underwriting process as efficient as possible. But rather than spend time on analysis and other credit functions, the salesperson is encouraged to get back out and create more deal flow.

Clearly, the first situation would demand a more “Type B” personality. A methodical approach is necessary to perform all of the steps with the requisite thoroughness of an initial underwriting. Conversely, the second approach is more suited for a “Type A” individual, where staying active out in the marketplace is more desirable. Realistically, few finance companies subscribe to either extreme. But it is important that your approach to sales matches the candidate’s traits or past experience (especially if that past experience was successful).

### The Paradox

When examining large sales forces, one will notice that both Type “A” and “B” personalities have succeeded and failed. There are no guarantees in life, so a seemingly perfect fit will not always work out. And on the flip side, some people have an amazing ability to adapt “given the right circumstances”. When dealing with people there are seldom any absolutes. And there are always more variables than simply the salesperson’s personality type and the companies approach to sales. There’s the competition for one. There’s also the personality type of the sales

*Continued on page 41*



**Thomas G. Siska** is Senior Vice President of North Mill Capital, LLC. Tom is a 24 year industry veteran who has built several factoring operations. He can be reached at 609-917-6228 or [TSiska@NorthMillCapital.com](mailto:TSiska@NorthMillCapital.com).





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Instructor: **Bob Zadek, Esq.**, Buchalter, Nemer

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### ACCOUNT EXEC / LOAN OFFICER TRAINING

**Planet Hollywood Resort and Casino, Las Vegas, NV  
June 21 & 22**

Topics Include: Invoice Verification Procedures, Reviewing and Approving Debtor Credit Limits, Dealing with Credit Memos, Monitoring Tax Payments, Specific Industry Concerns and Pitfalls, and more!

Instructors:

**Jay Atkins**, President, First Growth Capital  
**Darla Auchinachie**, VP, Bridge Capital Finance Group  
**Mike Ullman, Esq.**, Principal, Ullman & Ullman, P.A.

*Fee: \$845 (\$895 for Non-IFA Members)*

### CREATING AND MANAGING A FACTORING PORTFOLIO TRAINING SEMINAR

**Buchalter, Nemer, San Francisco, CA  
June 27-29**

The Schedule:

This factoring course will deal with most aspects of starting, growing and managing/operating an independent or bank-owned factoring company with special focus on sales, underwriting, account management, deal structuring, client servicing, capitalization and back-office structure.

Instructors:

**Bob Zadek, Esq.**, Buchalter, Nemer  
**Vince Narez**, Bay View Funding

*Fee: \$9,000 (\$9,250 for non-members)*

The class will run from 8am - 4pm all three days. The fee includes attendance for 4 people, course materials (including Bob Zadek's legal docs, contracts and letters), continental breakfasts, coffee breaks and luncheons. Also includes additional consulting after the course is completed.

### CREDIT & UNDERWRITING TRAINING CLASS

**Planet Hollywood Resort and Casino, Las Vegas, NV  
July 19 & 20**

This course, designed specifically for the factoring industry, will help factors wanting to expand and build on their knowledge base in underwriting and analyzing client and debtor credit.

Instructors:

**Debra Wilson**, Vice President, Vertex Financial, Ltd.  
**Cole Harmonson**, President & CEO, Far West Capital

*Fee: \$945 (\$995 for Non-IFA Members)*

### TRANSPORTATION FACTORING MEETING

**Hyatt Escala Lodge at Park City, UT  
September 6 & 7**

This meeting will feature various speakers and plenty of time for networking. We will begin with a welcome reception on Wednesday evening. Thursday and Friday will feature lectures mixed with group discussions. Following the lecture we will have a group dinner. Friday we will discuss debtor credit with a group credit discussion.

Moderators:

**Diana Clover**, President, D&S Factors  
**Tim Valdez**, Chief Lending Officer, TAB Bank

Legal Counsel:

**David Jencks, Esq.**, Attorney, Jencks & Jencks

*Fee: \$845 (\$895 for Non-IFA Members)*

### ADVANCED FACTORING SYMPOSIUM

**Caesar's Palace Hotel and Casino, Las Vegas, NV  
October 18 & 19**

Designed to identify and consider how to address business and legal issues that arise in a factoring business. Group discussions will be a portion of this course.

Instructors:

**Mike Ullman, Esq.**, Principal, Ullman & Ullman, P.A.  
**Jared Ullman, Esq.**, Attorney, Ullman & Ullman, P.A.

*Fee: \$945 (\$1045 for Non-IFA Members)*

### ACCOUNT EXEC/LOAN OFFICER FOR THE TRANSPORTATION INDUSTRY

**Caesar's Palace Hotel and Casino, Las Vegas, NV  
October 22 & 23**

A comprehensive two-day course dedicated solely to transportation factoring professionals; offering advanced, detailed and specific transportation information and covering a multitude of issues related to transportation factoring.

Instructors:

**Lori Gustaf**, FirstLine Funding Group  
**Tim Valdez**, TAB Bank

**David Jencks, Esq.**, Attorney, Jencks & Jencks

*Fee: \$845 (\$895 for Non-IFA Members)*

### SMALL FACTORS MEETING

**Caesar's Palace Hotel and Casino, Las Vegas, NV  
October 25 & 26**

Small Factors have unique needs. This workshop is designed to give small factors a forum to discuss and learn. Emphasis will be on round table discussion, networking and education.

Moderators:

**Jeff Callender**, President, Dash Point Financial Services, Inc.  
**Ryan Jaskiewicz**, President, 12five Capital

Legal Counsel:

**David Jencks, Esq.**, Attorney, Jencks & Jencks

*Fee: \$645 (\$695 for Non-IFA Members)*

REGISTER ONLINE AT [WWW.FACTORING.ORG](http://WWW.FACTORING.ORG) OR EMAIL [INFO@FACTORING.ORG](mailto:INFO@FACTORING.ORG)  
OR CALL 1-800-563-1895 FOR MORE INFORMATION.



# American Factoring Association Update

BY LEIGH LONES, CEO, BIBBY FINANCIAL SERVICES, AMERICAS REGION

## AFA MEETS WITH KEY MEMBERS OF CONGRESS

The March 2012 Washington, D.C. trip included meetings with key members of Congress sitting on banking and financial services-related Committees. I found it interesting that most elected officials do not understand how factoring works as a business practice and the benefits it offers to small businesses. Our time was spent explaining the basics of factoring and sharing key industry statistics about the number of small businesses we work with as well as the number of jobs we indirectly create through our financial support.

We met with members from the FDIC, Division of Risk Management and the Assistant Secretary to the Office of Small Business and Community Development. We informed these key agencies and lawmakers about factoring and the importance of our industry. There have been new efforts in Congress within the Dodd Frank banking reform bill and elsewhere, to manage lending services to the consumer. While we are business-to-business within our industry, if these laws and reforms are worded a certain way, with 'gray area' or ambiguous language, our industry could suffer even though we do not deal directly with the consumer.

It's important for all business directly and indirectly involved with factoring to support the AFA. This includes all U.S. factors as well as our suppliers, which includes: banks, credit agencies,

software suppliers, attorneys, etc. As CEO of one of the largest independent factors in North America, I whole-heartedly support the industry through organizations like the AFA. As a Board Member, I represent our industry and our desire to educate the marketplace about factoring and to protect our sound business practices.

Bibby Financial Services (BFS) is a U.K. company operating in 14 countries around the world. We recognize our success within each country is directly related to our ability to operate profitably there following a traditional factoring business model. Unwarranted regulation could prevent us from making prudent business decisions and increase our operating costs, making our presence within that country less attractive.

As an independent factor focused on supporting small businesses (SMEs) our past and future success is directly related to our ability to work with startups, rapidly growing business, and companies that don't qualify for bank funding. People in our industry must work together to preserve our ability to provide creative and flexible funding solutions to small businesses, which aid in their growth and ours.

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. •



## 2012 MEMBERS & DONATIONS

As of April 2012

### Diamond Member (\$10,000+)

Bibby Financial Services, Inc.  
Crestmark Bank  
D & S Factors  
First Capital Corp.  
Gulf Coast Business Credit  
International Factoring Association  
National Bankers Trust  
TBS Factoring Service, LLC

### Platinum (\$5,000 - \$10,000)

Advance Business Capital  
Allied Affiliated Funding  
Apex Capital LP  
Far West Capital  
Freight Capital/Capital Partners  
Gateway Commercial Finance  
Great Plains Transportation Services  
Interstate Capital Corporation  
J D Factors  
MP Star Financial, Inc.  
Pay4Freight.com  
RMP Capital Corp.  
Vertex Financial Corporation

### Gold (\$2,500 - \$5,000)

Associated Receivables Funding, Inc.  
Bay View Funding  
Federal National Payables, Inc  
Goodman Factors

Lenders Funding  
Prime Financial Group  
PRN Funding, LLC  
Republic Business Credit, LLC  
United Capital Funding Corp.

### Silver (\$1,000 - \$2,500)

Advance  
Allegiant Business Finance  
Ansonia Credit Data  
ATF Finance  
Capital Solutions  
Caribbean Factoring Services  
Commercial Business Finance  
Commercial Finance Group  
Coral Capital Solutions  
Crossroads Financial, LLC  
Epstein, Becker & Green, P.C.  
Factor King  
FSW Funding  
Harborcove Financial LLC  
Hennessey Capital  
J.O.B.E. Services, Inc.  
K.W. Receivables  
Landry Marks Partners, LP  
Levinson Arshonsky & Kurtz, LLP  
Maple Trade Finance, Inc.  
Paragon Financial Group, Inc.  
Phoenix Capital Group, LLC

Prosperity Funding, Inc.  
Spectrum Commercial Services Company  
Summar Financial  
Tax Guard, Inc.  
TransAm Financial Services, Inc.

### Bronze (\$500 - \$1,000)

American Funding Solutions LLC  
Amerisource Funding, Inc.  
Brookridge Funding  
BTB Capital Corp.  
Capitol Services, Inc.  
Cash Flow Financial LLC  
Chesapeake Bank  
Concept Financial Group  
Dash Point Financial Services, Inc.  
Entrepreneur Growth Capital  
FirstLine Funding Group.  
J & D Financial Corporation  
Mazon Associates, Inc.  
PFI Financial LLC  
Saint John Capital Corporation  
Stonebridge Financial Services, Inc.

### Other (Under \$500)

Commercial Finance Consultants  
Cross Key Capital LLC  
Downtown Capital Partners  
Fuller Business Funding  
RMJ Capital

# 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.**

## BUSINESS PROCESSING

### GENPACT

Genpact, a global leader in business process and technology management, has mastered the science behind improved operational performance with Smart Enterprise Processes (SEP<sup>SM</sup>). Their industry-specific services encompass all of Genpact's forward thinking and process expertise to help Factoring and Invoice Discounting companies' world-wide streamline and manage every phase of the cycle, providing the support needed to increase deal conversions, improve fee income and lower costs. By managing the entire process from end to end, they break down silos that impede information flow, accuracy, and timely processing.

Phone: +91-9828165659 • Website: [www.genpact.com](http://www.genpact.com)  
Email: [sherin.george@genpact.com](mailto:sherin.george@genpact.com)

**IFA members will receive 10% off services during the 1st year and 5% off on services starting in the 2nd year of engagement and onwards.**

## 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.

Website: [www.rpost.com/ifa](http://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) 613-7423 • Website: [www.12five.com](http://www.12five.com)  
Email: [ryan@12five.com](mailto: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 • Website: [www.factorhelp.com](http://www.factorhelp.com)  
Email: [dwilson@factorhelp.com](mailto: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  
Website: [www.ansoniacreditdata.com](http://www.ansoniacreditdata.com)

**IFA Member Benefits: 20% off the Alert System. The Alert System sells for \$25 per month. In the event that the Alert System is discounted or offered in other promotions, an additional benefit to IFA members may be required.**

### Carrier411 Services, Inc.

Carrier411 Services, Inc. provides several web-based services used by factors: Carrier411.com enables factors to qualify and monitor clients and debtors for changes in their insurance, authority and safety. Factor411.com is a free web-based system used to manage relationships with potential clients, existing clients and account debtors more efficiently and effectively. Debtor411.com is a new online credit service used by transportation factors.

Phone: 888-411-9661 • Website: [www.carrier411.com](http://www.carrier411.com)  
**IFA Member Benefits: Receive a 33% discount on Debtor411 credit reports.**

### Experian

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

Phone: 973-285-4856 • Website: [www.experian.com](http://www.experian.com)  
Email: [Jacqueline.Faitoute@Experian.com](mailto:Jacqueline.Faitoute@Experian.com)  
**IFA Members receive Experian business credit information at a special reduced rate**

### Smyyth Networks

Smyyth provides world class credit and accounts receivable services that the world's largest companies use to manage risk, and optimize cash flow and maximize profits. Their services include credit information, analytics and credit insurance, accounts receivable, collection, deduction management, and profit recovery. Their Smyyth Networks™ platform offers businesses a new paradigm in industry trade credit data interchange in a virtual environment with reports that score tens of millions on industry-specific trade data on millions of companies based on a secure and scalable data cloud computing backbone.

Phone: 201-714-4514 • Website: [www.smyyth.com](http://www.smyyth.com)  
**IFA Members receive free trade reports in exchange for AR data. Also receive free bankruptcy notifications & preferred rates for collections - 15% contingency fee.**

### 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 • Website: [www.transcredit.com](http://www.transcredit.com)  
Email: [winston@transcredit.com](mailto: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

Website: [www.epaymentamerica.com](http://www.epaymentamerica.com)  
Email: [chunt@epaymentamerica.com](mailto:chunt@epaymentamerica.com)

**IFA Member Benefits: Exclusive credit and debit card rates, discounted gateway fee, discounted PCI compliance.**

## DISASTER RECOVERY SERVICES

### Agility Recovery

For the past 22 years, Agility Recovery has been a premier provider of onsite recovery solutions across the United States and Canada. When disaster hits, Agility will be there on the scene, providing you with any, or all, of the critical elements you need to keep your business in business: power, space, technology, connectivity. Membership also includes access to a dedicated Continuity Planner and secure access to your myAgility planning portal to assist in building and maintaining your business continuity plan.

Phone: 704-341-8700

Website: [www.agilityrecovery.com](http://www.agilityrecovery.com)  
Email: [salesupport@agilityrecovery.com](mailto: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 • Website: [www.rmpcapital.com](http://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

Website: [www.50wordsmarketing.com](http://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

Website: [www.gatewaytradefinance.com](http://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.*

## 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 • Website: [www.searchcfc.com](http://www.searchcfc.com)  
Email: [dar@searchcfc.com](mailto: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 a leading global provider of superior software applications for factoring, invoice discounting and asset based lending. A nimble company, Bayside is able to quickly leverage changes in technology and finance into better tools for their users. Bayside prides itself on providing the best customer service in the business.

Phone: 205-972-8900 • Website: [www.baysidebiz.com](http://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 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 to access its data on the web, nor are manual uploads of reports necessary. FactorFox's versions include Start Up, Professional, Management, Enterprise and Franchise, making it suitable for nearly any size factor.

Phone: 866-432-2409 • Website: [www.factorfox.com](http://www.factorfox.com)  
Email: [jeff@factorfox.com](mailto: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 UCC 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 • Website: [www.tax-guard.com](http://www.tax-guard.com)  
*IFA Members will receive a 20% discount on the same day due diligence order.*

## TELECOMMUNICATIONS

### Vocalocity

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

Website: [www.vocalocity.com/IFA](http://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.*

## TRANSPORTATION

### ExecuCar

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](http://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](http://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 • Website: [www.ficoso.com](http://www.ficoso.com)  
Email: [daves@ficoso.com](mailto: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 CALENDAR OF EVENTS

**JUNE 18-19**

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

**JUNE 21-22**

**Account Executive/  
Loan Officer Training**  
Planet Hollywood  
Las Vegas, NV

**JULY 19-20**

**Credit & Underwriting**  
Planet Hollywood  
Las Vegas, NV

**SEPTEMBER 6-7**

**Transportation Meeting**  
Hyatt Escala Lodge  
Park City, UT

**OCTOBER 18-19**

**Advanced Factoring Symposium**  
Caesar's Palace  
Las Vegas, NV

**OCTOBER 22-23**

**AE-LO for the Transportation  
Industry**  
Caesar's Palace  
Las Vegas, NV

**OCTOBER 25-26**

**Small Factors Meeting**  
Caesar's Palace  
Las Vegas, NV

**JANUARY 24-25, 2013**

**Presidents & Senior Executives  
Meeting**  
Ritz-Carlton  
San Juan, Puerto Rico

**APRIL 24-27, 2013**

**2013 Factoring Conference**  
Fontainebleau  
Miami Beach, FL

**FOR DETAILS ABOUT IFA  
EVENTS, PLEASE VISIT  
[WWW.FACTORING.ORG](http://WWW.FACTORING.ORG)**



**William Stucky and Associates, Inc.**



## ***Choose the right WSA Factoring Software for your business!***

WSA Factoring software, NovaCS and Pegasus, are time tested solutions for the international and domestic lender. WSA has employed state-of-the-art Microsoft and web technologies to deliver real time information to both internal and external users. Both systems support the core functions of the factor and are scalable across multiple users, offices, and countries; easily meeting the demands of today's lenders and their sophisticated borrowers.

### **NOVA CS: Commercial Services / Factoring System**

NovaCS is designed to provide the lender with maximum flexibility in financial products and pricing. NovaCS is a full commercial services system including modules to support bulk A/R, inventory, documentary and standby letters of credit, purchase guarantees, and term/ mortgage loans.

### **PEGASUS**

PEGASUS is the end-to-end processing software for the start up or established factor purchasing less than \$1 billion in invoices per year.

For information on WSA Factoring software please contact Rosanne Doyle at (570) 941-9037 or via email at [rosanne.doyle@stuckynet.com](mailto:rosanne.doyle@stuckynet.com).



*The Leader in Asset-Based  
Lending and Factoring  
Software*

# How to Respond to a Preference Demand Letter

An account debtor's bankruptcy is never a good thing (usually it means little or no payments on the debt will be forthcoming). Even greater insult to this injury is to receive a demand letter from a chapter 7 Trustee asking that you return funds paid to you by the account debtor in the days or months preceding the bankruptcy filing, which you have undoubtedly already used. **BY BRUCE AKERLY, ESQ.**

An account debtor's bankruptcy is never a good thing (usually it means little or no payments on the debt will be forthcoming). Even greater insult to this injury is to receive a demand letter from a chapter 7 Trustee asking that you return funds paid to you by the account debtor in the days or months preceding the bankruptcy filing, which you have undoubtedly already used. This un-Godly process typically begins with the receipt of a letter from the chapter 7 Trustee or his law firm advising that their review of the debtor's books and records indicate an avoidable transfer has taken place and the funds should be returned or litigation will ensue. The demands – or dare I say “shake-downs” – often include a proposal for settlement. Before you whip out your check book and return your “hard earned” – or at least hard fought/sought for - money, you should consult with a bankruptcy attorney to find out (a) if the transaction at issue actually qualifies as a preference transfer, (b) whether and to what extent applicable statutory defenses may be available, and (c) your possible negotiation strategy.

## What is a Preference?

Preferential transfer law is a creature of Congress as part of the Bankruptcy Code's attempt to level the playing field for all creditors by not allowing one creditor to be favored (receive more) than it would have received if it were to wait in line with all of the other creditors in the debtor's bankruptcy case. Some States have assignment for benefit of creditor statutes that contain similar provisions, but none of these compare the avoiding punch of section 547 of the Bankruptcy Code.

Simply put, a preference is a payment (called a “transfer”) of some property (usually cash represented by a check but can also be real or other personal

property) of the debtor (important factor – it must be the debtor's property) to a creditor (that is you or your agent), for the purpose of paying a pre-existing debt (called an “antecedent” debt) within 90 days prior to the filing of the bankruptcy case (calculated by not including the filing date and adding backwards), at a time when the debtor was insolvent, and which payment enables you to receive more than you would receive if you had not received the payment and got paid with all of the other creditors in a chapter 7 liquidation. These are the elements of a preference transfer action. The chapter 7 Trustee has the burden to prove these elements. Insolvency is presumed to exist (i.e., you must prove otherwise, which can be expensive). Further, in the context of receiving a check or other payment instrument (which are the most common forms of payment on a debt) the transfer takes place when the instrument is honored by the bank on which it is drawn (i.e., cash the check quickly).

## What Defenses Are Available to a Preference Demand/Action?

There are only 2 ways to attack a preference allegation. First, ask whether the Trustee can establish all of the

elements of a preference transfer? Second, ask whether you can assert one of the statutory defenses set out in section 547(c) of the Bankruptcy Code. Common law defenses – like estoppel, waiver, off set, and good faith – do not apply. The preference amount must exceed \$600 (if the debtor's debts are primarily consumer debts) or \$5,850 (if the debtor's debts are primarily non-consumer debts). Also, if the demand involves a money judgment for less than \$1,175, consumer debt of less than \$17,575, or a non-insider/non-consumer debt of less than \$11,725, any action will have to be filed in the district court for the district in which you reside.

The two most common defenses that you might have to a preference are (1) new value and (2) ordinary course of business. The new value defense is similar to set off except that it applies only to prospective services rendered or good supplied. The other defense, ordinary course of business, involves transfers to you in payment of a debt which are in the ordinary course of yours and the debtor's financial business or recognized in your industry. A trustee might not want to pursue an action or would be willing to settle cheaply if you can readily establish either or both of these defenses from examining the kinds of payments that had been received in the past. If these defenses are available you want to make this known up front to the trustee. Many cases have been settled quickly when the creditor could provide documentation that would support these defenses.

## Should I (or How Should I) Respond to a Preference Demand Letter?

First, remain calm. It is just a letter. A stronger reaction might be justified if

**A TRUSTEE MIGHT NOT WANT TO PURSUE AN ACTION OR WOULD BE WILLING TO SETTLE CHEAPLY IF YOU CAN READILY ESTABLISH EITHER OR BOTH OF THESE DEFENSES...**



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**BOTTOM LINE: YOU WANT TO RESPOND VERBALLY OR IN WRITING TO ALL DEMANDS.**

you were served with an actual lawsuit. Second, resist the temptation to throw the demand letter in your "circular file" (i.e., your trash can). Ignoring a demand letter may only serve to embolden the Trustee and eliminate a later opportunity to resolve the matter. As noted above, you may have certain valuable, sustainable defenses that you want to flesh out and/or as to which you require additional information. Often the source of the Trustee's information, which led to the issuance of the demand, is incorrect and/or based on limited data. An initial response may be necessary to gather information to establish whether the Trustee can prove the elements of a preference and/or to support a defense. This also will provide a breathing period to get your arms around what is happening and whether you will be able to mount a good defense and/or enable you to begin the settlement negotiation process. Further, most demands contain relatively small discounts for up-front payments, so unless the offer is just "too good to refuse" you are better off delaying the process while you evaluate the Trustee's evidence and applicable defenses. Bottom line: you want to respond verbally or in writing to all demands.

**What Information is Needed to Determine Defenses?**

You will likely be the source of information to enable your attorney to respond to a preference demand letter. Before contacting counsel, you may want to gather the payment history involving the debtor for at least the year preceding the bankruptcy filing. This information typically will include:

Copies of all correspondence, contracts, credit applications, telephone logs, emails, and the like involving the debtor;

A copy of all invoices, showing invoice date, terms and amount of each invoice;



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A copy of all payments received from the debtor identifying the method of payment (EFT, check, cashier's check, money order, cash) and the date the payment was posted to your bank account;

The number of days elapsed between date of invoice and date of payment was received; and

All persons involved with the debtor's account, so they can advise as the business terms between the parties and how payments were made, applied and any unique issues involving the debtor.

This information will prove valuable to your counsel in assessing your risk and exposure to avoidance of alleged preference payments.

### Do I Really Need an Attorney? Are Attorney's Fees Recoverable?

If successful, a trustee is not ordinarily entitled to recover attorney's fees in prosecuting a preference action (they will be paid from the "estate"), but interest will continue to accrue on the amounts at issue. Also, you will not be able to recover fees and expenses paid to your attorney in defending against a preference demand or lawsuit. However, while it may not be very appealing to hire an attorney to help you get through this process, kind of like adding salt to the wound, the reality is that there are risks going it alone and having an attorney represent you can actually save time and money, particularly if a settlement is in prospect. In bankruptcy, like many other areas of the law, it really does help to walk-the-walk and talk-the-talk. Also, most attorneys will set fee rates based on amounts in dispute and will be willing to work with you on terms of engagement given the particular circumstances involved. •



**Bruce W. Akerly, Esq.**, heads the bankruptcy and creditor's rights practice group for Cantey Hanger LLP

and his office is located in Dallas, Texas. He has handled hundreds of preference situation and can be reached at bakerly@canteyhanger.com or 214-978-4129.

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# an inside look

## WHAT FACTOR CLIENTS HAVE TO SAY



## Q&A with Jerry Smith

Vice President, JM Oilfield Service

### FACTOR: TAB BANK

*JM Oilfield Service, Inc. provides support for the energy industry with its transportation services. JM's equipment includes power units, vacuum trailers, flat beds, frac tanks, anchor trucks and more. JM has experienced significant growth in the last couple of years. They have been associated with TAB Bank for about 18 months.*

**IFA:** Why did you choose Accounts Receivable financing vs. other types of financing?

**JS:** We had a little experience with AR financing through companies we have acquired or looked at acquiring. With the growth we knew was coming and wanting to have a flexible credit facility to meet our needs no matter how much we had in revenue and expenses, it made sense for us to use a flexible product like AR financing. Traditional bank financing does not provide the flexible aspects of financing we require.

**IFA:** How did you choose TAB Bank?

**JS:** We were outgrowing our local banks ability to respond to our requirements and needed to work with a company that could handle our current and projected growth. Through one of our advisors, we were connected with TAB's local Vice President, Adriana Lopez-Hammer. We conducted several conversations with Adriana (who also came to our corporate headquarters) to determine if there was a "fit" with

TAB. We also talked with other financial institutions. After looking at our different options, TAB appeared to be the most viable based on the liquidity and flexibility they could provide as well as their understanding of our operations.

**IFA:** What's important to you when selecting a finance company?

**JS:** Flexibility, responsiveness and the ability to grow. Our company has been growing quickly over the past few years and we expect that to continue. We don't want to get bogged down worrying about the next financial relationship. This business moves pretty quickly and we don't want to miss any opportunities.

**IFA:** What's important in the relationship?

**JS:** Contact. We like being able to connect with our account representative by phone or email when we need to. There are different things that come up in our business on a regular basis in regard to our cash flow. It gives us some comfort knowing that we can reach out and solve an issue or take advantage of an opportunity. We also like that TAB is a bank and everything that comes along with working with a bank.

**IFA:** How did TAB assist you?

**JS:** Liquidity. We were growing quickly and we had recently acquired another

company. Our arrangement at the time was not allowing us to take advantage of opportunities for additional revenue. TAB was able to work through the process of replacing our old line as well as work with the growing pains we were experiencing.

**IFA:** Is the relationship a good one?

**YJS:** es. We think that our connection with TAB last year has certainly helped our business. We think TAB likes us as a customer as well. It feels like it is a win win for all involved.

**IFA:** By increasing your cash flow, did you accomplish your goals (growth, survive, etc)?

**JS:** Working in the oil and gas industry, you have to strike while the iron is hot. The opportunity cost of not taking on the next job or customer is big. While we all love what we do, we are in business to make money. It takes money to make money. We needed the additional capital to grow the business and we have achieved that. Now we look to the next opportunity.

**IFA:** Would you recommend this type of financing to other companies in your situation?

**JS:** We would. Many of our peers utilize this sort of financing already. I am sure this sort of financing would work well in other industries as well.

### Electronic Edge

*Continued from page 21*

the factor to increase cash by collecting on late payment penalties. RPost also provides the official time stamps, important as computer clocks can be set to read whatever time is desirable, rendering some records meaningless.

"In addition to proving delivery of notices, factors must exercise 'control' over documents such as electronic

chattel paper to ensure their enforceability under UCC Article 9," comments Neiditz. "RPost's Registered Email service not only proves delivery and adds weight to email evidence, but is also likely to meet these 'control' requirements."

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# Tightening the Grip: How the IRS is Pursuing Federal Government Contractors

BY JASON PECKHAM, ESQ.

In recent months, federal government contractors have secured an important victory as well as a significant defeat (or two) relative to the Internal Revenue Service. Initially, the Three Percent Contractor Withholding tax was repealed. However, additional provisions were added to the Federal Payment Levy Program that make it much more aggressive. Whereas, factors and asset-based lenders (ABLs) generally enjoy the security of working with federal government contractors, it is important to understand these changes.

## Three Percent Contractor Withholding Tax

In 2004, the GAO reported that “DOD and IRS records showed that over 27,000 contractors owed about \$3 billion in unpaid taxes as of September 30, 2002.” In response, Congress passed the Tax Increase Prevention and Reconciliation Act of 2005, which was signed into law on May 17, 2006. The law required federal, state, and local governments that paid \$100 million or more for property or services annually to withhold three percent of each payment to contractors of \$10,000 or more. Essentially, Congress attempted to fix a problem with DOD contractors by placing significant burdens on government agencies as well as all government contractors, not just those working with DOD.

Congress’ intentions may have been good, but the road to hell is paved with good intentions. The basis for the legislation was that tax evasion amongst federal contractors was widespread. Additionally, the IRS has empirical research that demonstrates withholding and information reporting substantially improves tax compliance. However, there were issues with the bill’s provisions from the outset. The date the provisions were supposed to go

**IN RECENT MONTHS, FEDERAL GOVERNMENT CONTRACTORS HAVE SECURED AN IMPORTANT VICTORY AS WELL AS A SIGNIFICANT DEFEAT (OR TWO) RELATIVE TO THE INTERNAL REVENUE SERVICE.**

into effect was pushed back from 2010 to 2011 then to 2012. In the end, the costs of compliance – for government agencies as well as the contractors – was deemed to be too expensive. The costs to develop internal accounting systems would ultimately be passed on to the government and shouldered by individual taxpayers. Importantly, existing tools, including the Federal Payment Levy Program, were considered sufficient to address the issue of contractors with federal tax liabilities.

Ultimately, the Three Percent Withholding Repeal and Job Creation Act was signed into law on November 21, 2011. If you couldn’t guess from the title, the Act repeals three percent government withholding as if it never existed – a not so small victory for the government contractor.

## Federal Payment Levy Program

In July 2000, the IRS, in conjunction with the Department of the Treasury’s Financial Management Service (FMS), established the Federal Payment Levy Program (FPLP). FMS provides central payment services to federal

agencies, operates the federal government’s collections and deposit systems, provides government-wide accounting and reporting services and manages the collection of delinquent debt. The FPLP is a systemic collection and enforcement tool allowing the federal government to match delinquent taxpayers with federal payments and then levy those payments. This program allows the IRS and FMS to collect overdue taxes.

The FPLP process, as it was originally established, was as follows. Each week, IRS Financial Systems transmitted a file of delinquent accounts to FMS, which then matched those accounts against pending federal payments due (your clients’ accounts receivable). When a match was found, the IRS sent the taxpayer (your client) a Final Notice of Intent to Levy if the IRS had not already done so.

If the IRS did not receive a request for a Collection Due Process (CDP) appeal within 30 days of the date of the Final Notice, the IRS transmitted the levy electronically to FMS. This applied to all federal payments that can be levied (except for certain Social Security benefits). The FPLP levy was continuous (as opposed to levies issued by Revenue Officers, which only attach to the amount due as of the date the levy is received). Internal Revenue Code section 6331(h) authorized the IRS to levy up to 15% of certain payments continuously, including contractor/vendor payments that were previously exempt from continuous levy. The levy was continuous until the overdue taxes were paid in full or the parties made other arrangements to satisfy the debt. Each time a federal payment was levied, FMS sent your client a letter of explanation, including information on which federal payment was levied, and advised your client to contact the IRS for resolution.

Normally, a factor or ABL can secure its position by filing a lien and can ensure its priority position by periodically performing lien searches. However, such steps are insufficient protection from government offsets. The FPLP allows the federal government to offset federal payments against tax obligations with (1) no notice to the taxpayer, factor or ABL and (2) no requirement to file a federal tax lien. If the government does not file a federal tax lien, the factor or ABL may have no actual or

constructive knowledge of the federal tax liability, yet still be in a position where it could lose its advances due to offsets.

There are a number of reasons FPLP offsets were not a significant issue in the past. Because of interagency issues and IRS procedures, the number of businesses whose receivables were actually offset was much lower than the number that could (and some say should) have been offset. Over the past year, Congress and the IRS have

eliminated several of the “problems” with the program. The result is fewer protections for the taxpayer, which means fewer protections for the factor or ABL as well.

## 100 Percent for Goods or Services

In 2004, Congress added section 6331(h) (3): “paragraph (1) shall be applied by substituting ‘100 percent’ for ‘15 percent’ in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.” As a result, FMS is now entitled to offset 100 percent of federal payment for goods and services as opposed to 15 percent.

According to a Government Accounting Office (GAO) report regarding the IRS 2010 Budget Request from June 2009, technical issues have impaired the IRS’s ability to fully implement the legal provision to increase the continuous levy on federal payments from 15 percent to 100 percent. Now that these technical issues have been addressed, the potential exposure for factors and ABLs factors will increase significantly.

## Collection Due-Process Appeals

Prior to 2010, if a contractor / taxpayer filed a Collection Due Process (CDP) appeal in response to a Final Notice of Intent to Levy, the IRS was prevented from taking enforced collection levies (including those in the FPLP) until the appeal was resolved. Under those policies, it could take several years for a delinquent account to be assigned to a Revenue Officer and submitted to FMS for matching.

The Small Business Jobs Act of 2010 changed section 6330(f) of the Internal Revenue Code to add to the category of cases in which the IRS can levy first and give a post-levy CDP hearing when “the Secretary has served a federal contractor levy.” In the past, the IRS had to notify the taxpayer and provide an opportunity to appeal prior to issuing the levy. After January 15, 2012, the IRS can issue the levy first and then provide the opportunity for appeal. The House Ways and Means Committee’s summary of the Small Business Jobs Tax Act of 2010 estimates that allowing the IRS to levy prior to appeal will raise \$1.056 billion over ten years. This new law significantly reduces the collection

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due-process rights of taxpayers and significantly increases the factor's or ABL's exposure.

## Definition of Federal Contractor

The definition of a federal contractor levy is broadly defined by the IRS. The IRS's chief counsel indicated in a May 12, 2011, memo that "federal contractor" is not defined in the IRC, Federal Acquisition Regulations (FAR), or in any other statute or regulation. As such, the Service will use the terms in its ordinary meaning: a person or entity that contracts with the federal government to provide property or services. Under this definition, almost any government receivable could be subject to a 100% offset.

## Property

The Small Business Jobs Act of 2010 also extended the reach of section 6331(h) of the Internal Revenue Code. Since 2004, the IRS could continuously levy 100 percent of payments for goods and services provided to the federal government. Now, the IRS's continuous levy authority can reach all payments due a federal vendor, including property (payments made for the sale or lease of real estate and other types of property not considered goods or services) as well as goods and services.

## Medicare

In 2008, the GAO reported that more than 27,000 Medicare providers (approximately six percent) owed more than \$2 billion to the IRS. Because Medicare providers are not federal contractors in that they do not provide goods, services, or property to the federal government, they are subject to only 15 percent offset as opposed to 100 percent. However, the Joint Committee on Taxation on February 7, 2012 issued a recommendation that the



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Highway Investment, Job Creation and Economic Growth Act of 2012 include a provision to allow "Treasury to levy up to 100 percent of a payment to a Medicare provider to collect unpaid taxes." Given Congress' trend of expanding the reach of the FPLP, it is likely that this provision will become law sooner rather than later.

## How Can I Protect My Advances?

Since January 15, 2012, Tax Guard

has seen a significant increase in the number of offsets through the FPLP. There are three methods of protection: monitoring IRS issues prior to the filing of a federal tax lien, removal from the FPLP, and formal agreements with the IRS. If a factor or ABL relies solely upon a UCC search to protect itself, it may identify an IRS liability after the damage has been done. Instead, the factor or ABL should file an 8821 Tax Information Authorization form on

*Continued on page 41*

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## Hidden Liens and Trusts: The PACA Trust Problem

Hidden liens and trusts are always a problem for factors. And a PACA trust is one example of a hidden trust that factors should be wary of. PACA trust problems occur when a factor purchases the accounts of a business that sells fresh fruit and vegetables. The problem is that if the producer of the fresh fruit or vegetables has not been paid by the factor's client, then the factor may lose its right to the proceeds of the receivables that it purchased.

PACA stands for the Perishable Agricultural Commodities Act. The Act is intended to protect producers of fresh fruit and vegetables. The Act is Congress' attempt to remedy the problem of producers not being paid by brokers, while the broker's secured creditors are paid from the proceeds of the produce. PACA creates a trust in the perishable assets including the receivables generated from sales of the produce. The Act specifically provides the following:

Perishable agricultural commodities received by a commissioned merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commissioned merchant, dealer or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transaction has been received by such unpaid suppliers, sellers or agents . . .

The trust that the Act creates is the problem. The producers and suppliers who are protected by this trust have a priority in the inventory and proceeds of the inventory including accounts receivable even over the claims of the secured creditors of the brokers. Congress allows this trust to be commingled with non-trust assets without destroying the trust.

Here is an example of how a PACA trust

is supposed to work. A farmer sells fresh fruit and vegetables to a broker on credit. The broker then sells the produce on credit to a retail outlet like a grocery store. The broker obtains a loan on the accounts and grants the lender a lien on the accounts receivable due from the grocery store. If the farmer is not paid what it is owed, then under PACA, the farmer has a superior right to the accounts receivables and the proceeds thereof over the lender. If a factor is not careful, this can result in significant losses.

The obvious defense for a factor is to claim that they are not a secured lender,

### CONGRESSIONAL POLICY SEEMS TO BE THE DRIVING FORCE BEHIND THESE DECISIONS.

but a purchaser of an asset. As a result, so the argument goes, the trust should attach to the money that the factor paid the broker to purchase the receivables, not to the receivables themselves. To prevail, the factor has to prove that they are bona fide purchasers for value of the trust assets. More specifically, common trust law governs the PACA trust and being a bona fide purchaser for value allows the factor to purchase accounts receivable free of any claim by a PACA beneficiary. All the factor has to do is to prove that it purchased its interest in the accounts for value, in good faith, and without notice that the transfer was in breach of a PACA trust. A transfer cannot be "for value," however, if it is for repayment of a preexisting debt.

And this is where the real problem with this defense occurs. In reported opinions, this defense rarely, if ever, succeeds. The problem is that if this transaction is actually a secured loan

disguised as a factoring arrangement, then the factor cannot be a bona fide purchaser for value because the transfer is for repayment of a preexisting debt. The court's analysis is essentially the same as it always is when the "loan versus sale" issue arises in factoring. Court's decide based on how much of the risk of nonpayment on the accounts stays with the client and how much is transferred to the factor. Among the facts the court considers are (1) whether this a recourse deal, (2) whether the factor is granted a blanket lien securing collateral for any losses, (3) whether there is a personal guaranty for any losses suffered by the factor, and (4) whether the language in the agreement refers to the transaction as a loan or a sale. Almost all of the courts have held that the factor is really loaning money, not purchasing receivables, so the defense fails and the factor loses big.

Congressional policy seems to be the driving force behind these decisions. Courts have recognized that this result may have a negative impact on the availability of funding, but Congress enacted the policy and courts are merely interpreting Congress' intent. Also, because case law holding that a factoring arrangement is actually a loan can have far reaching implications for factors dealing with other issues—e.g. usury or bankruptcy issues—some courts have narrowed their holdings to only apply to PACA trust issues.

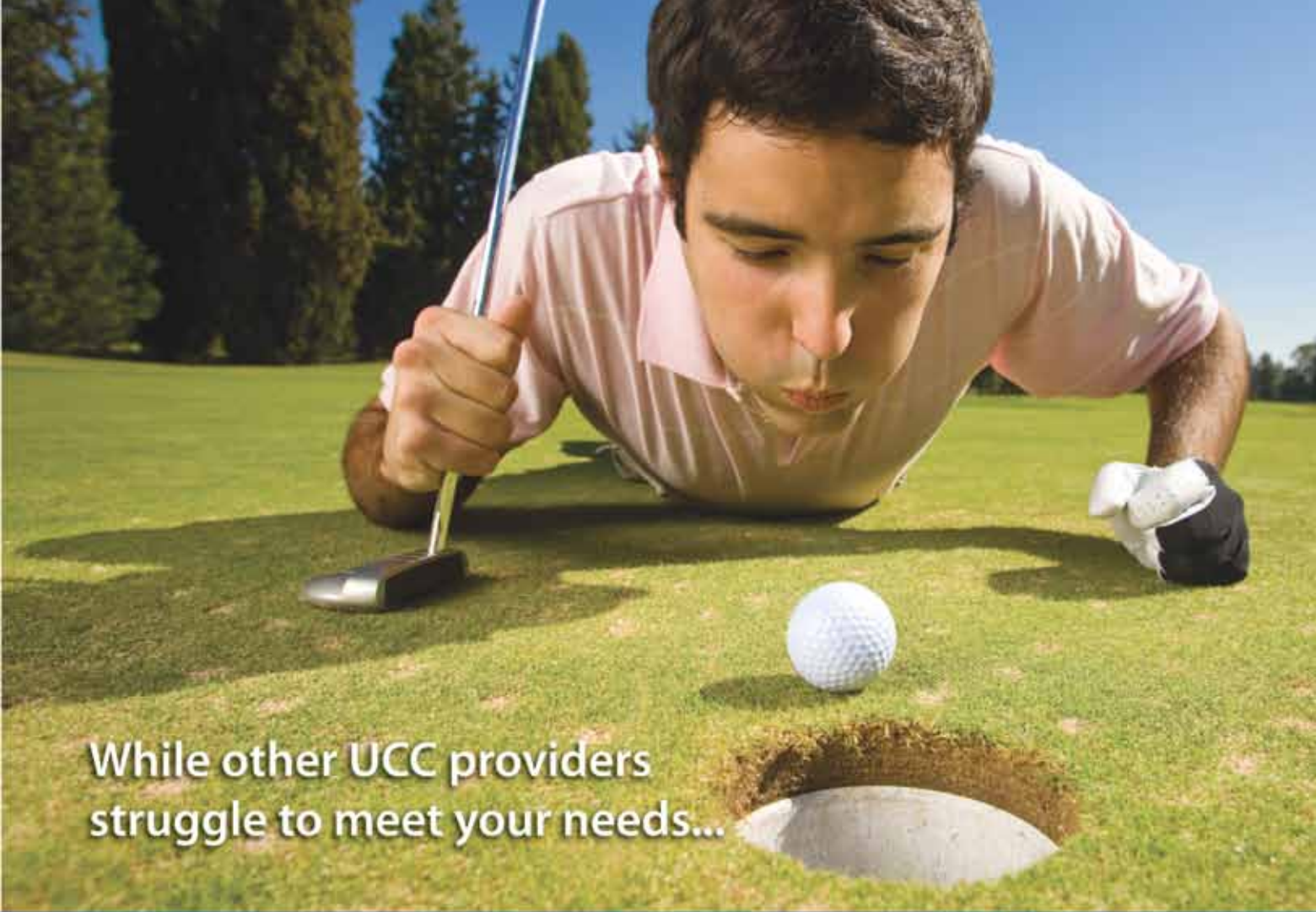
If available, a more effective defense may be to argue that the PACA trust does not apply because the fruit and

*Continued on page 41*



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Rosenthal & Rosenthal, Inc. ("Rosenthal") has begun celebrating its 75th anniversary, making it one of the oldest privately-held firms in the American commercial finance industry. In recent years, a number of its competitors have either been merged, acquired or have lost their edge, enabling Rosenthal to emerge as a market leader handling some \$7 billion in annual revenues.

For all the growth that Rosenthal has enjoyed, however, the firm remains true to its original mission to provide customer service through innovative and customized financial solutions tailored to each client's particular needs. Since its founding by Imre Rosenthal in 1938, the firm has grown and expanded dramatically, but it has managed to do so without compromising its principles or deviating from its corporate culture. While some might characterize Rosenthal's business approach as conservative, the firm has adapted to a rapidly changing financial landscape to remain at the forefront of the commercial finance industry.

Kenneth Rosenthal Kleiner, a third-generation family principal and Executive Vice President, acknowledges that it has been tempting, at

times, to venture beyond factoring and asset-based lending, as some competitors have. "Yes, sometimes we would wonder whether we were missing out. Or did others in our community know something we did not?"

Kleiner, 47, an attorney by background, and his cousin, Peter Rosenthal, 41, who has been President of the firm since 2006, have realized the wisdom of sticking with what they know best. By leveraging its core businesses, Rosenthal has achieved impressive financial strength. "Our approach has been a lot more rewarding than being thinly spread among a variety of sectors where we are weak or poorly represented," Kleiner observes.

Peter Rosenthal explains, "Being a private, family-owned operation has been tremendously advantageous for us. As managers, this gives us flexibility in deciding which transactions to pursue. Then, we can move quickly and provide a unique level of personalized service to our clients that many of our competitors are unable to achieve."

While we are still in the midst of the "Great Recession," it is easy to forget that following the 1929 stock market crash that ushered in the "Great Depression," it was not until the early

1950's that banks resumed making loans and mortgages with any degree of regularity. When Imre Rosenthal founded his firm in the depths of the Depression, he was a true entrepreneur, financing small garment-center businesses that were otherwise unable to obtain loans from banks.

Today, Rosenthal remains committed to supporting the "garment center," even as apparel companies have shifted from manufacturing to importing. As part of the progression in garments, textiles, and fashion, Rosenthal, in 2003, opened a second office in Los Angeles. Four years later, Rosenthal opened a representative office in Shanghai, with an eye toward the continued future growth of Chinese imports to the United States.

Rosenthal's loans typically range between \$1 million and \$10 million, with some as high as \$20 million or more. Factoring still accounts for over 80% of the business and is concentrated in apparel, textiles and accessories. The firm's client roster includes some of the fashion industry's stars, like Steve Madden and Diane von Furstenberg. The remaining 20% consists of asset-based loans that are predominantly outside the apparel industry in such areas as black car services, technology services and jewelry. Rosenthal also provides short-term "bridge" real estate financing and lends on fine art.

With Imre Rosenthal's son, Stephen, who is Chairman and CEO, the firm has grown to over 200 employees. In contrast to the "revolving door" of many companies today, especially in financial services, Rosenthal has a long-standing culture of retaining employees, which has resulted in purposeful loyalty from its people. Nearly 25 percent of Rosenthal's employees have been with the firm over 25 years. Several are actually on the job for over half a century!

Two industry veterans include J. Michael Stanley, who heads up the factoring division, and James Occhiogrosso, who heads up the asset-based lending division. "We believe that our people are our greatest asset," describes Kleiner. "They have a wealth of experience with myriad situations and all types of credit climates. The knowledge that they have built up during the course of their careers is beneficial to the firm and our clients."

One important competitive advantage that Rosenthal has developed through



the decades is its credit and collections unit. “We have been able to provide many of our clients with a powerful and cost-effective tool for managing their accounts receivable that they would have a difficult time creating themselves,” notes Mr. Stanley. “By outsourcing the credit, collection and bookkeeping functions to Rosenthal, our clients are able to focus on the parts of their businesses that are critical to their long-term success.”

Adds Stanley, “More than ever, over the past several years retailers are coming up with ways to shift the merchandise risk back to the vendors. In this volatile credit climate, it is more important that a client’s factor or lender gives support and guidance here.”

The Rosenthal team is ever mindful about the need to stay nimble, especially when new retail formats have been emerging (e.g. the increase in online retailing at the expense of traditional “bricks and mortar” retailing). However, Rosenthal has no intention of straying too far from the formula that has led to its accomplishment through its 75 years.

“As part of our 75th anniversary observance,” Peter Rosenthal concludes, “we are mindful of the principles upon which my grandfather founded our firm. The family has remained true to these principles, and I am confident that by building our firm one quality deal at a time, the next 75 years will be as bright as the past.” •

## sales & marketing

*Continued from page 40*

manager. And the underwriters. And the Credit Manager. And let’s not forget those rare few salespeople that seem to do well no matter their employer.

## Conclusion

Nevertheless, what you’ll find is that the odds for success are better when the “right” personality is chosen for the given situation. And if that salesperson has had past success “in circumstances similar to your firm’s”, the odds get even greater. For while the Perfect Salesperson may just be a myth, perfect failures are not. They are real, and unfortunately, plentiful. Hiring is all about stacking the odds in your favor. The better you recognize the “fit”, the more successes you will have. •

## Tightening the Grip

*Continued from page 37*

behalf of the business and make calls to the IRS every thirty days to determine whether there are any liabilities. Alternatively, the factor or ABL could use a third party tax compliance monitoring service.

It is much easier to prevent the offset than to try to undo the offset once it has occurred. Assuming the factor or ABL identifies the liability with the IRS early in the collection process, either the taxpayer or a power of attorney can contact the IRS and request that the Revenue Officer remove the case from the FPLP. It takes approximately 90 days to remove a taxpayer from the FPLP and begin to see full payments on receivables. If the factor or ABL wants to recoup its advances, it will likely have to file a lawsuit for wrongful levy, which it may or may not win.

**IT IS MUCH EASIER TO PREVENT THE OFFSET THAN TO TRY TO UNDO THE OFFSET ONCE IT HAS OCCURRED.**

Finally, the business can protect itself from levy (FPLP or otherwise) if there is a formal Installment Agreement in place. The formal agreement in combination with a subordination of federal tax lien (if necessary) can protect both the contractor as well as the factor or ABL. Again, it is much easier to negotiate a formal agreement prior to an actual offset or federal tax lien.

When addressing issues with the IRS, it always better to be proactive than reactive. If federal government receivables are involved, this is especially true. Substantial changes made to the FPLP over the past year will significantly increase the exposure of factors or ABL to offset — potentially to the extent of \$1 billion. FMS can now take 100 percent of most receivables and the IRS no longer has to provide appeal rights prior to offset. Proactive monitoring and (when liabilities with the IRS arise) ensuring an agreement is quickly negotiated with the IRS can significantly decrease exposure to potential losses from offset. •

## legal factor

*Continued from page 38*

vegetables have been processed. PACA applies to fresh fruit and vegetables whether they are frozen or packed. Processing the produce, however, can remove the debt owed to the producer from being eligible for PACA trust protection. The Second Circuit Court of Appeals in *Endico Potatoes* case discusses this issue in detail. That court held that the products must be in their “natural form or are subject to a change in form which does not change the essential nature of the item, such as slicing, or a change which is meant only to preserve the fruit or vegetable, such as freezing or adding a natural preservative chemical.” So blanching with water is acceptable, but breaching is not. Frozen vegetables are covered by the Act, but onion rings and coleslaw are not.

Finally, to be a beneficiary of a PACA trust, the PACA claimant must provide timely written notice to the purchaser. The notice must be filed within 30 calendar days “(i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary [of the United States Department of Agriculture], (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored.” Often this notice is printed or stamped on the face of any invoices that the producer generates. Requesting and reviewing these invoices from your client is an important step in uncovering potential PACA trust issues.

PACA is a problem. Purchasing invoices that could be subject to a PACA trust is risky, and the case law has rarely been in a factor’s favor. Also, certain states have state laws that create trusts like PACA, and factors need to be aware of these. The key is to either avoid this issue or make adjustments to handle the significantly increased risk. Otherwise, being unaware of a PACA trust problem can be a recipe for disaster. •

# small ticket factor

BY JEFF CALLENDER

## The 2012 IFA Conference: Points of Interest for Small Factors

Since this edition of The Commercial Factor is distributed at the IFA Annual Conference in Huntington Beach, I'd like to suggest a few points of interest especially for small factors. Those who are in attendance will hopefully be able to take these in, and those who can't attend this year can look forward to next year's conference in Miami.

While all the classes and workshops at IFA conferences are excellent, here are the classes from which very small factors can especially benefit.

### Pre-Conference Events

**MONDAY EVENING—WEDNESDAY NOON,  
APRIL 16-18**

#### ***FactorFox Users Conference.***

FactorFox software is widely utilized by small factors and its first users group meeting is just before the IFA Conference begins (though the event is not officially part of the IFA Conference). This users conference is open to FactorFox subscribers and those interested in learning more about the software. The rollout of the newest version, FactorFox Cirrus, will be unveiled.

#### **WEDNESDAY:**

#### ***8:00-4:30 – Best Practices for***

***Portfolio Management.*** Led by industry veterans Darla Auchinachie and Marc Marin, this class is for anyone with basic factoring experience who wants to learn more about

how to manage a successful factoring relationship. Its focus is on sharing best practices employed by seasoned factoring companies.

#### ***4:30-5:30 – New Member Reception***

***(by invitation only).*** For new IFA members, this reception will give the attendees an opportunity to meet other attendees and learn about the conference. Admittance to this reception is limited to new IFA members, IFA Advisory Board Members, and Conference sponsors. If you have received an invitation to this reception, this will be a great opportunity to network.

#### ***5:30-7:30 – RMP Welcome Reception.***

The Welcome Reception is designed to give Factoring Conference attendees an opportunity to socialize with other participants and vendors. Another excellent networking opportunity.

### Conference Events

#### **THURSDAY:**

***8:30 – IFA Update.*** This annual welcome from president Bert Goldberg is a good introduction to the conference, gives updates about the organization, and is a good way to get grounded for the next couple days.

***9:00 – Economic Forecast.*** Dr. Jim Paulsen is the chief investment strategist at Wells Capital Management and will speak about economic and marketing trends. A will be a good

macroeconomic perspective for micro factors.

***11:00 – Catch Me If You Can.*** This year's keynote speaker, Frank W. Abagnale, was one of the world's most famous con men 40 years ago. His best-selling book, *Catch Me If You Can*, was the basis for the film by the same name directed by Steven Spielberg and starred Leonardo DiCaprio and Tom Hanks. He has been associated with the FBI for over 30 years and is one of the world's most respected authorities on forgery, embezzlement and secure documents. Come see how brazen real crooks can be.

***2:00 – Two concurrent classes are valuable for small factors:***

***Overcommitted, Overwhelmed and Over It!*** Juliet Funt helps people shift the way they think about daily pressures and responsibilities so they can prioritize their time, reach their goals, and be present and peaceful enough to live life to the fullest. Who doesn't need that?

***Factoring 101*** with Darla Auchinachie. Unfortunately this class is at the same time as Juliet Funt's. If you're brand new to factoring, this class is for you. Darla's been in the business for years and is a tremendous resource. Don't miss this if you know little or nothing about factoring and want to start at square one.



In addition to writing this regular column for *The Commercial Factor*, **Jeff Callender** is President of Dash Point Financial ([DashPointFinancial.com](http://DashPointFinancial.com)) which buys receivables of very small businesses. He has written many books and ebooks about factoring which can be obtained from [DashPointPublishing.com](http://DashPointPublishing.com) as well as the IFA website's Store. All his books are being updated and will be re-released this summer. He also is the President of FactorFox

Software, Inc., a cloud-based program used by factors of all sizes to track their receivables. You can reach him at 866 432 2408 or via email at [Jeff@DashPointFinancial.com](mailto:Jeff@DashPointFinancial.com) or [Jeff@FactorFox.com](mailto:Jeff@FactorFox.com).

# FactorFox®



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[www.FactorFox.com/Conference.html](http://www.FactorFox.com/Conference.html)

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#### FREE TRIAL & GUARANTEE:

- Free demo videos
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**4:00 – Again, two concurrent classes for small factors that are highly valuable:**

**Fraud: The Art of the Steal.** A second, smaller session with Frank Abagnale; if you liked his keynote address, you'll learn more about how bad guys operate here.

**Everything You've Always Wanted to Know About Notifications & Verifications But Were Afraid to Ask.** This is a panel discussion with three experienced factors and a well-known factoring attorney. They will address the proper steps to notifications and verifications – the cornerstones to successful factoring.

**5:30-7:30 – Bibby Social.** The Bibby Social is open to all conference attendees and their guests. Food, drinks and entertainment will be provided.

**9:00-11:00 – Tax Guard Dessert Reception.** The Tax Guard Dessert Reception is open to all conference attendees and their guests. Desserts, Drinks and entertainment will be provided.

#### FRIDAY CLASSES:

**8:30 – Bob Zadek.** One of the premier attorneys and an expert in the field of factoring, Mr. Zadek will provide his Report from the Courts - How You and Your Friends Made Out in the Courts. He will also discuss lessons to be learned from this year's court decisions, and how the courts treated IFA members.

**11:15 – American Factoring Association.** This presentation will provide an update from those who provides our senators and congress members in Washington, D.C. with an understanding – and the value – of the factoring industry.

**2:00 – Current Transportation Factoring Topics.** If you currently factor or plan to factor trucking receivables, attend this class led by very knowledgeable attorney David Jencks. If not, take in Factoring: Past, Present and Future. This panel of four will discuss the evolution of the factoring industry, progress to today's factors, then take a trip to the future and give their predictions as to the industries and methodologies that will need to be utilized and implemented in order to survive and prosper.

**4:00 – Small Factors Roundtable.** Let by small factors Darrell Fleck, Melissa Donald, and attorney David Jencks, this open discussion is especially for all smaller factors. Meet others who do what you do, hear their opinions and practices, and share yours if you wish. Always a valuable discussion.

The other major focus of the conference (besides the socials and lots of informal networking) is the Exhibit Hall. Spend as much time as you can here. While you're speaking to the people at these booths, find out:

- how many smaller factors they serve
- the prices of their various products
- prices for extra or add-on features you may desire.

For those unable to attend the Huntington Beach conference, the IFA records all of the speaking sessions and makes those available on their website after the event.

Also, IFA is sponsoring its annual Small Factor Roundtable discussion Oct. 25-26 at Caesar's Palace in Las Vegas. Go to the IFA website ([www.factoring.org](http://www.factoring.org)) and click Events, then Small Factors Workshop, for complete information and to register.

I look forward to seeing as many of you as possible both in Huntington Beach and in Las Vegas. •

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Stop by First Corporate Solutions' Booth (#9) at the Annual Factoring Conference in Huntington Beach, California to learn more about how to mitigate risk with our Comprehensive Services, Online Solutions and Educational Resources.

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