

I'm Going To Sue!

Dear Friends:

Thank you! As Szabo Associates, Inc. celebrates its 15th anniversary, I want to say how much I appreciate the numerous letters I received in response to the first issue of "Szabo Collective Wisdom." Among the comments that I'm enjoying wallowing in were "fantastic," "superb," "great," "informative," "witty," and "congratulations and will this issue be a collector's item too?"

Well, I don't know about that. But I do know that with your helpful suggestions and continuing support, we'll keep trying to bring you useful information in an entertaining format. Remember to send in any collection questions you would like us to answer in "Collector's Corner," as well as interesting true stories about life in the credit business.

I hope that you enjoy our second issue and have a wonderful fall season!

Best wishes,



Pete Szabo, President
Szabo Associates, Inc.

You've been wronged! You've provided time or space to a customer who now refuses to pay you for your services. You're enraged, of course, and want to strike back with modern America's most popular weapon of intimidation—a lawsuit!

A lawsuit may indeed be your best recourse in a dispute that neither party can agree or compromise on and that can't be resolved in any other way. A lawsuit can be an effective method to collect what is rightfully yours. But before you enlist Killum, Skinnum, and Tanhide to go after your debtor, think carefully about what you stand to gain and what you might possibly lose.

First, ask yourself, "How much will this cost me?" Court costs, presentation of evidence, travel to out-of-town courts, and appeals are all expensive items. Another possibility to consider is counter-claims. When you put yourself under the jurisdiction of a court in which you bring the lawsuit, the defendant has the right to counterclaim, or bring suit against you in a court you don't choose. Know the reason for the debtor's non-payment. If he feels that he has a legitimate one, a counterclaim may be likely. Besides expense and the possibility of a counterclaim, there is the problem of court calendars. The

time it takes to get your case heard by a judge and jury is getting longer and longer, and much can happen to your debtor's business situation during the wait.

Since lawsuits are matters of public record, a debtor who is aware of your intention to sue may try to settle the matter before you get to court to avoid the bad publicity. Just remember, however, that if you say to a debtor, "If I don't receive payment within seven days, I will serve you with legal process," be prepared to follow through. Idle threats will do you more harm than good.

If the debtor offers to pay in increments over a period of months, resist the impulse to say, "I want it all and I want it soon." Consider the offer carefully in light of the possible alternatives and ask yourself honestly, "Would I be better off to accept such a plan and avoid the risks of a lawsuit?" Although it is frustrating to compromise when you know you're in the right, the practical advantages of procuring a reasonable, guaranteed payment plan may well outweigh the disadvantages.

If you decide to proceed with a lawsuit, your attorney first serves the debtor with a summons, or

—continued on page 2

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FORECAST

My forecast for the first quarter of 1987 includes more words of caution about the auto industry and some thoughts on mortgage companies.



Pete Szabo, President

First, more on the car wars. In last issue's Forecast, I predicted a slowdown in the last quarter because so many consumers had already been enticed to purchase new automobiles earlier in the year. With the low to zero interest rate incentives and rebates, 1986 models have continued to move off the floor rapidly. I believe that 1987 models will be slow sellers because of all these incentives to buy '86 cars. An interesting outcome of this is that banks and credit unions, claiming that automobile finance companies are monopolizing auto financing by conducting unfair trade practices, are now lobbying in Congress to stop these practices.

New mortgage companies have been springing up like grass since interest rates have dropped. These companies have been advertising heavily, pitching their lending abilities in competition with savings and loan and "old line" mortgage companies. I believe that it is probable that interest rates will rise by the beginning of next year and that subsequently, fewer customers will be available to lenders. The mortgage industry will not be able to support this proliferation of companies when this happens, so watch out for those that may not have the strength to survive. ♦

"Collector's Corner" is our readers' forum for suggestions, comments, and idea swapping. If you have information to share or input on how our newsletter can better serve you, please write or call. We want to hear from you!

Question. How should a credit manager determine which delinquent accounts to pursue first?

Answer. I think there are three priorities that a credit manager should set:

1. Work on **large balances** first. A credit manager's primary responsibility is to maximize cash flow. Concentrate on getting the larger accounts reconciled first.
2. **New customers** need particular attention. Enforce your collection policies at the beginning of the business relationship. If you don't, you may inadvertently encourage new customers to become habitually slow-paying.
3. Finally, work on those accounts that are **most past due**.

COLLECTOR'S CORNER

I'm Going To Sue!

—continued from page 1

complaint, which explains the lawsuit. The debtor has a given number of days (usually 30) to respond to the summons. If he fails to respond, you're entitled to a default judgment, and the collection process can begin. If he does answer, even if that answer is inappropriate, the process continues.

Your attorney can then make application to the court on your behalf for a "summary judgment." The judge will study the documentation of the claim, and the more documentation that you have to support your claim, the better. This could include your contract, affidavits of performance, statements of account, invoices, and letters from the debtor concerning the account. The court may grant

judgment in your favor if the documentation is sufficient to support your claim.

If your documentation is insufficient, and the case goes to trial, the probability of your receiving payment from the debtor becomes fairly simple to predict. If the non-payment was the result of the debtor's inability to pay, the chances are fairly slim. If it was the result of a dispute, however, the chances are much better.

No one likes to think that a business relationship begun in good faith might end up in the courts. But in anticipation of the unlikely event that it does, it is advisable to get as much in writing from a potential debtor as possible. Extensive documentation of an account can halt the lawsuit in your favor at the summary judgment stage before you ever reach the jury. ♦

True Collections

The following story is true. The names, places, and dates have been changed to protect the persons involved.

The Jamaican Connection

Collecting a debt within the United States or even locally can sometimes be tricky. But as I found out recently, overseas debt collection is like playing in the World Series after five seasons in the bush leagues.

I was booted out of the minors abruptly one morning when I was given the job of collecting on a business in Jamaica. Oh well, batter up, I thought. Big deal. It could be worse—they speak a dialect of English, after all.

I dialed the number of the large international company and spoke to five people, each a little higher up on the corporate ladder than the preceding one. I soon found myself speaking directly to the president, who assured me that he had paid the account to his local bank. "There is one problem," he said. "Exchange control." Strike one.

The people at the government-controlled Bank of Jamaica were most courteous. The bank was presently approving a transfer of funds to the Royal Bank of Canada, a correspondent bank. Then, I was assured, the account would be paid.

"That wasn't too difficult," I thought. But unfortunately, before

the transaction was completed, the Jamaican government advised all banks that no money would leave the country except for medical expenses and priority debts because of a foreign exchange shortage. Strike two.

I made several more fruitless calls to the the Jamaican embassy in Washington, the bank, the debtor, and the Jamaican government ("I'm sorry," I was told, "the Minister of Finance is extremely busy, and his office has nothing to do with banking regulations anyway"). Foul.

One last hope. I called my contact at the debtor's bank, who had heard from a reliable source that the government might allow certain funds to be released. "All you must do," she said, "is get approval from the government-controlled bank, obtain a wire number, and it will be done."

I did as she advised and found out that we would receive the money in seven days. I'd finally made it to first base!

An interminable week passed, and

the day that the transaction was to take place, I nervously dialed the number of my contact at the Jamaican bank. My call was immediately transferred to security.

"I am sorry, Sir. The bank is closed."

"Closed?" I couldn't believe... well, I guess I could.

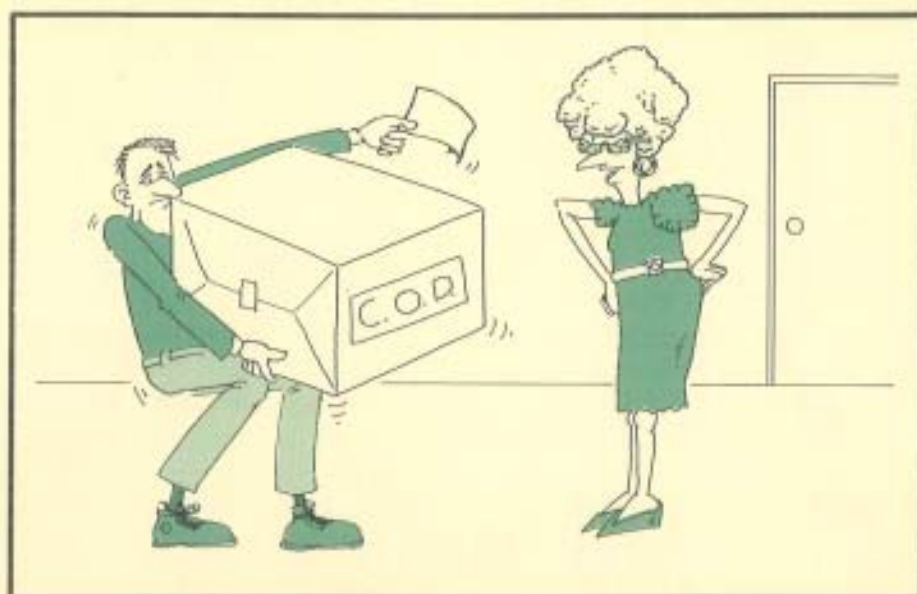
"Yes. Until further notice. Riots in the street. Severe gas shortage, you see."

Over the next several days, the newspapers kept me informed of the civil turmoil on the tiny island. Every day I placed my obligatory call to the bank, and every day it went unanswered.

Then one afternoon, I got a surprise call from my contact at the bank. "A wire was sent to your bank today," she told me. "You will get your money."

I dared hope that she was right, and several days later the money did indeed arrive. I settled back in my chair, closed my eyes, and

—continued on page 4



HONEY, I'M TELLIN' YOU, WE DIDN'T ORDER NO FISH!

True Collections

—continued from page 3

fantasized that I was being carried on the shoulders of cheering teammates surrounded by swirling confetti that looked curiously like Jamaican currency. I was making plans to pick up a bottle of dark rum and a Harry Belafonte record on the way home when my reverie was interrupted by a phone call about a new case.

"One quick question," I asked the client. "Where is the debtor?"

"I'm afraid it's out of state," he replied. "Nevada."

"That's like right next door," I said with relief. "Piece of cake." ♦

—story contributed by
Chuck Langgood

Calendar of Events

Szabo Associates will be attending the following conventions this fall. We hope to see you there!

Advertising Media Credit Executives Association

October 13-17
Orlando, Florida

Broadcast Credit Association

October 14-15
Kansas City, Missouri

Television Bureau of Advertising

November 17-19
Los Angeles, California

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