

E~Credit News



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25 Ways To Resolve Customer Disputes & Deductions More Quickly

Webinar

April 12, 2022

9:00 – 10:00 AM CT

Presented by: Michael Dennis

In this fast-paced and interactive program, Michael Dennis will present at least 25 ways that credit professionals can address and resolve customer disputes and deductions more quickly, more effectively, and more efficiently.

This is a must-attend program for anyone struggling to deal with too many customers taking too many deductions too often — often without any justification for doing so.



“Webinar: Legal Aspects of Credit and Collections” Webinar

May 18, 2022

9:00 – 10:00 AM CT

Presented by: David Balovich



In this fast-paced hour devoted entirely to the legal aspects that affect the daily operations of the successful credit and collection department, David Balovich discusses the numerous day to day legal occurrences that credit professionals deal with that can affect productivity, success, and failures.

- Learn the difference between Credit Agreements and Credit Applications and why Credit Applications are becoming obsolete.
- Learn the importance of knowing your customer’s correct legal name.
- Learn about the pitfalls of personal and corporate guaranties and how to make them effective.
- Learn when the customer’s purchase order terms is a valid reason for the customer to pay beyond your terms of sale and how to avoid it.
- Learn how and the importance of being a secured creditor and easy it is to become one.
- Learn about the Unclaimed Property Act and its requirements.



NEW ASSOCIATION CONTACTS:

Joni Moseley, CFE
Porocel/Evonik
Leah Keys
Clearwing Productions Inc
JJ Bustos
Phoenix Lighting
Nicole Lipinski
Volm Companies

NEW GROUP REPRESENTATIVE

INTERNATIONAL CREDIT EXECUTIVES (ICE) GROUP
JJ Bustos
Phoenix Lighting

Member News

Congratulations to Amanda Reinhardt ~ Dakota Supply on becoming Mrs. Amanda Van Vooren. Wishing you two lots of love and happiness.

Congratulations to Rebecca Muehe, from Ozinga, on her recent promotion to Regional HR Supervisor! Best of luck in your new position!



THE USE & IMPACT OF SECURITIZATION ON AIR DURING THE PANDEMIC

By: Kristin Alford, Education & Marketing Specialist, NCS

The following editorial is the result of both survey results and anecdotal supporting commentary offered by the credit community. Details here within are based on CRF survey material and research material through the author (NCS).

The Credit Research Foundation completed a survey in the first quarter of 2021 with their membership on the use and impact of securitization (UCCs, mechanic's lien, etc.) on accounts receivable during the pandemic. The survey explored the use of securitization as a risk mitigation tool.

The following data quips highlight the results of the survey and corresponding experience through NCS.

“I Believe There Will Be an Increase in Bankruptcies During 2021.”

Unsurprisingly, 88% of respondents believe there will be an increase in bankruptcies in 2021. In general, 2020 saw a low rate of bankruptcies, in fact [Epiq](#) reported bankruptcy filings across all chapters were at their lowest point since 1986. However, commercial Chapter 11 bankruptcies continued to rise year over year, with a 29% increase in 2020, for a total of 7,128 filings. Forecasts indicate bankruptcy filings will increase in 2021, with a predicted spike in Q3 2021.

Why Will Bankruptcy Filings Increase in 2021?

This is certainly a question on many credit professionals' minds as the challenges of the economy, government stimulus and indebtedness in the marketplace plague the overall portfolio risk of many organizations. Additionally, Congress extended Sub-Chapter 5 of the Bankruptcy Code (small business) and the grace period to file under the extended debt levels (\$7.5 million) an additional year, which now expires in March of 2022. Given these factors there seems to be an awareness to the potential for at least certain segments of the economy to file for bankruptcy. Anecdotally, conversations from many members of the Foundation have all eyes on Q3 and Q4 of 2021 as a pivotal and anticipated point for the next level of bankruptcy activity.

In an earlier [NCS survey](#), 62% of respondents were actively monitoring their customers for bankruptcy. Continue to monitor your customers, and if there is a [bankruptcy](#), ensure to complete your [Proof of Claim](#) by the bar date.

“Our Company Has Been an Unsecured Creditor in a Bankruptcy and Recovered Less Money Than Secured Creditors.”

An overwhelming 90% of respondents have suffered as unsecured creditors in a bankruptcy, watching from the sidelines as secured creditors recovered payments in full. These losses are preventable and at minimal cost. Secured transactions are your greatest defense against customer failure. Time & time again, we see secured creditors receive payment in full while unsecured creditors receive pennies on the dollar.

For example, Katy Industries, a leading manufacturer, importer and distributor of commercial cleaning and consumer storage products, filed for bankruptcy when it was unable to meet the obligations of its creditors, with nearly \$56 million of debt. In this case, **secured creditors** recovered the **total amount** of allowed claims (100%) while **unsecured creditors** faced a recovery rate of only **9.6%**.

THE USE & IMPACT OF SECURITIZATION ON A/R DURING THE PANDEMIC (CONTINUED)

Another example comes from the [healthcare industry](#). Holmes, Inc. provided health & wellbeing programs nationwide. When it filed for bankruptcy protection, its capital deficit was \$31.5 million. **According to the bankruptcy plan, secured creditors were to receive 100% of their claims and unsecured creditors were to receive approximately 3.5% of their claims.**

Need more? In the Hostess bankruptcy, secured creditors recovered 100% and unsecured creditors recovered 0. In Kodak's bankruptcy, secured creditors recovered 100% and unsecured creditors recovered 4-5%. Then there was Uno, where secured creditors received 100% and unsecured received 13%. And HomeBanc Corp. distributed 100% of claims to secured creditors and unsecured recovered anywhere from 1-10%.

“Our Company Currently Secures Our Accounts Receivable, Either in Full or Partially.”

83% of respondents currently secure their A/R. For the 17% who don't currently secure A/R, the top two cited reasons are concerns about customer reaction and the costs associated with securing A/R, followed by no significant write-offs, no need, and reliance on 503(b)9 claims. A respondent from the manufacturing industry stated they do not secure A/R because “We have an 85% recovery rate as a Critical Vendor in our industry.”

Let's circle back to the top two cited reasons for not securing A/R: concerns about customer reaction and costs. First, it's OK to be nervous about how your customer will respond to your request for a signed Security Agreement (needed to file UCCs) or your customer's reaction when they receive a preliminary notice (needed to secure mechanic's lien rights) via certified mail. But rest assured, these are traditional business practices that do not harm your customer's creditworthiness or cost your customer a dime. UCCs and preliminary notices/mechanic's liens secure your right to recover payment in the unlikely event your customer defaults or files bankruptcy. If your customer never defaults or files for bankruptcy, it's as though the UCC/lien never existed.

As for the costs associated with UCCs and preliminary notices/mechanic's liens, they are nominal compared to the hundreds of thousands of dollars you could lose as an unsecured creditor. These are general numbers, but a blanket UCC filing may cost around \$100 and a PMSI filing with search & notify may cost around \$175 – and the protection is in place for 5 years. As for preliminary notices/mechanic's liens, let's focus on the preliminary notice. Why? Because research shows 97.3% of the time a preliminary notice is enough to get you paid. Generally, a preliminary notice may cost around \$60 per project. Now, mechanic's liens may have a higher price tag (\$500+) but again, when compared to what you could lose, it's a small price to pay.

Lastly, I do want to mention that 503(b)9 claims are a great resource; however, there are some pitfalls. The bankruptcy code was amended in 2005 to include a new administrative claim: 503(b)(9). With the addition of 503(b)(9) claims, some creditors became complacent. The availability of a 503(b)(9) claim seemed to misleadingly allay creditor concerns, **“Nah, I don't need UCC filings. We just file a 503(b)(9) to get paid.”** This somewhat false sense of security can easily cost creditors millions of dollars.

Under 503(b)(9), creditors may file a claim for “the value of any goods received by the debtor within the 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.”

As you can imagine, there are challenges with 503(b)(9) claims. High-profile cases are in heated debate over the definition of “received by” for the 20-day rule. And, of course, there is the question of what constitutes a “good” because services are not covered under these claims, and whether those goods have been sold in the ordinary course of business.

As an aside, a member of the panel at CRF's Fall Forum, Judge Christopher S. Sontchi, Chief Judge of The United States Bankruptcy Court for the District of Delaware, has presided over several cases determining “goods” and “receipt.” Notably, in one case, Judge Sontchi looked to the UCC definition of goods and subsequently held that electricity is not a “good” under 503(b)(9).

To be clear, a UCC filing is not without potential obstacles. Your UCC must be properly perfected and there is a

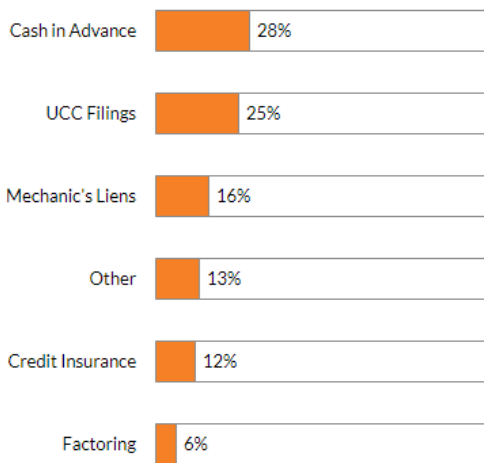
THE USE & IMPACT OF SECURITIZATION ON A/R DURING THE PANDEMIC
(CONTINUED)

narrow margin for error. But, ensuring a UCC has been properly perfected is less cumbersome than proving goods are goods, defining date of receipt and verifying goods are sold during ordinary course of business.

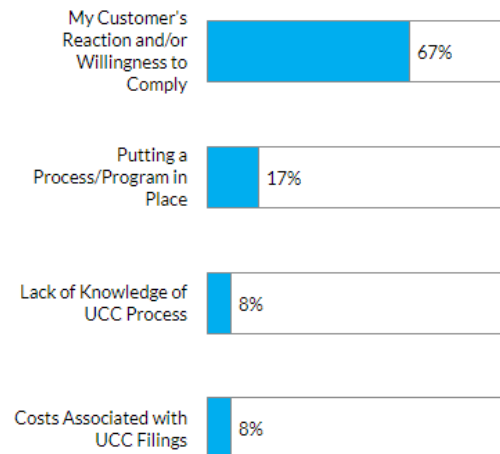
How are creditors securing A/R? For creditors securing their A/R, the top two security measures were Cash in Advance and UCC filings.

Biggest Concerns with UCC Filings. Despite concerns surrounding UCC filings, respondents certainly recognize the benefits of UCC filings. Benefits include being a secured creditor in a bankruptcy, the ability to repossess goods if customer defaults, the customer will consider creditor a greater payment priority and there would be public record of the debt.

How Are Creditors Securing A/R

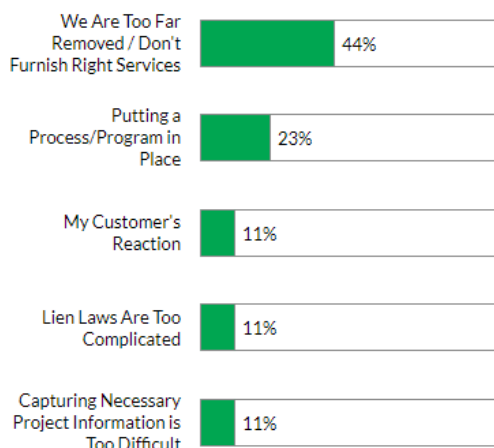


Biggest Concerns with UCC Filings



Biggest Concerns with Protecting Mechanic's Lien Rights. Like what we see with UCC filings, respondents agree protecting mechanic's lien rights would make them a secured creditor in the event of bankruptcy, customers would consider the creditor a greater payment priority and there would be public record of the debt.

Biggest Concerns with Protecting Mechanic's Lien Rights



THE USE & IMPACT OF SECURITIZATION ON A/R DURING THE PANDEMIC (CONTINUED)

Securing Transactions is an Excellent Way to Secure A/R

Whether you file UCCs or mechanic's liens:

You are a priority. In bankruptcy, secured creditors have priority and are paid before unsecured creditors.

You can sell more. Securing your A/R allows you to extend larger credit limits and sell to those accounts that were previously out of reach.

Fewer write-offs. Fewer write-offs lower the costs associated with your product. Lower costs mean you can sell your product at a lower price while maintaining viable profit margins. Selling at a lower price makes your company more competitive, opening the doors to a larger market share. More sales with stable profit margins are a win.

Improved DSO. Here's a testimonial from one of our clients: "After implementing the lien/notice to owner program, we have seen our DSO numbers steadily decline each month, to an average of around 22 days. That is over a 30% improvement in our DSO since we first partnered with NCS."

Low-cost solutions. UCC filings and preliminary notices/mechanic's liens are truly a low-cost solution; especially when compared to the costs associated with chasing receivables.

*This article was originally published in the Credit
Research Foundation 2Q 2021 Perspective*



POSITIONS AVAILABLE

The Business Credit Management Association Wisconsin, a professional service organization for those in credit management, collection and accounts receivable, provides many service tools to the companies it supports. Some of these services are credit reporting, collections, industry trade credit groups, an International Credit group, consulting and employment services. Employment services is an area on our website where both temporary and permanent positions for member companies can be found.

Here are a few of the positions that we currently have listed on our website. If you wish to post your position here, let us know, there is no charge to do so. If you are interested in one of the positions, feel free to click on the job title for additional information.

Credit Analyst	The Vollrath Company LLC	Sheboygan, WI
Credit Specialist	Aqua-Aerobics Systems , Inc	Loves Park, IL
Credit & Collections Coordinator	Western States Envelope	Walbridge, OH
Senior Financial Analyst Position	Flexsteel Industries Inc	Dubuque IA
Accountants Receivable Specialists	Boelter Companies Inc	Pewaukee, WI

Wayne J Crosby CCP, CPC X224

President & COO
Fox Valley Location

- Membership
- Director of Professional Service Firm Solutions
- Resume Referral Services
- Employment & Outsourcing Services
- International & Industry Group Administrator

Darryl Rowinski CCP, CPC X222

CEO

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Chrys Gregoire X221

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- Data Transmissions Group Services
- Communications
- Credit Reporting

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Fox Valley Location

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- Group Services
- ICE Group Administration
- Education Services/Programs
- Social Media Marketing

Patty Hughes X227

- Recovery Specialist
- Credit Reporting



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UPCOMING INDUSTRY CREDIT GROUP MEETINGS

APRIL 8, 2022

Electrical Suppliers Industry Credit Group
Menomonee Falls, WI

APRIL 12, 2022

Fine Paper/Graphic Arts Industry Credit Group
Book of Reports
Regional Paper & Packaging Industry Credit Group
Teleconference Call

APRIL 13, 2022

Plumbing & Heating Industry Credit Group
TBD

APRIL 15, 2022

IL Fine Paper Industry Credit Group
TBD

APRIL 19, 2022

Building & Construction Materials Credit Group
Milwaukee, WI
Minnesota Fine Paper Credit Group
Teleconference Call

APRIL 20, 2022

Minnesota Electrical Suppliers Credit Group
Brooklyn MN



APRIL 20, 2022

Food Service Supply Hospitality Industry Credit Group
TBD

APRIL 21, 2022

Construction Industries Credit Group
Appleton, WI

APRIL 22, 2022

Western Electrical Suppliers Industry Credit Group
Book of Reports

No Meeting this month

Iowa Plumbing Heating Electrical & Construction
Industry Credit Group

Metals & Industrial Suppliers Credit Group

Education Events

BCMA WCA

April 12 Webinar

25 Ways to Resolve Customer
Disputes and Deductions More
Quickly

May 18 Webinar

Legal Aspects of Credit and
Collections

SAVE THE DATES

May 25 ICE Breaker

Global Supply Chain

June 14 Webinar

How to Set Customer Credit Limits
Correctly

September 21-23 Event

CreditScape Conference

YOU CAN TRUST THE ASSOCIATION TO ASSIST IN [COLLECTION RECOVERY](#) FROM YOUR DEBTORS ANYWHERE IN THE WORLD.