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'UNCOLLECTABLE' DEBTS MAY BE COLLECTED

by GEOFFREY C. PRICE,
For the Austin Business Journal

One of the hazards of extending credit to your customers is that no matter how careful you are, you will have customers who will not or cannot pay their bills. What do you do?

Most small business owners do nothing. They wait. Unfortunately, the longer you wait, the less likely it is that you will ever collect on the account.

A speedy, pro-active approach to collections will yield the best results for your company. An effective collections program takes time, something every small business owner is in short supply of, so many business owners turn to outside help with their commercial collections. The advantages are obvious.

Whether you choose a commercial collections attorney or a collections agency, you are choosing a professional who has the experience and the time to concentrate on collecting your uncollectable debts, freeing you to concentrate on your areas of expertise.

A commercial collections attorney has the added advantage of more enforcement ability. An attorney can file a lawsuit in your behalf. Often, first contact from an attorney, even without the threat of a lawsuit, is enough to get most creditors' attention.

Many accounts sent to a collection agency are eventually turned over to an attorney anyway but by this point, the account has been sitting for many months or even years and the chances of collection are severely reduced.

Keep the following in mind when selecting an attorney for help with collections:

- **Emphasis on Collections**— The attorney's practice should emphasize commercial collections. Although a general pur-

pose attorney could handle your collections work, an attorney who primarily handles commercial collections cases has a greater knowledge of the market and has more options available.

- **Contingency fees**— Look for an attorney who works on a contingency basis. Your only outside expenses are filing fees and court costs if the case eventually makes it to the courts. Some attorneys charge an hourly rate and/or a retainer fee. These are expenses you will pay regardless of whether the debt is collected.

Even the best commercial collections attorney can't work miracles. To give your outstanding debts the best chance of being recovered, you have to do your part.

The creditor and collections attorney must enter into a partnership. The most effective partnership will extend from the drafting of the credit application to the decision to extend credit, through the collections process and all the way to final recovery.

The most important thing you can do is to not wait before pursuing an account. Texas has a longtime reputation as a "debtor's haven" but remedies are available for collections, even when dealing with debtors completely unwilling to cooperate.

Creditors who wait often will recover nothing, while those who act early and vigorously will collect — even from the same debtors.

If an invoice is net due in 30 days, it is past due on the 31st day. At this point, you may turn it over to your attorney for collection. Remember, the longer you wait, the less chance you'll ever collect. If the debtor eventually goes out of business, the account will be uncollectable. Often collection can be made before this point if the creditor does not wait. Your next step in successful col-

lections is to provide your attorney with careful documentation of the account.

Your records should include:

- **Account history**— An accurate accounting of all debts incurred and payments made.
- **Application records**— Your signed credit application with a current address and/or a personal guaranty.
- **Payment documents**— Copies of checks, or the bank name and account number from which payments were made.
- **Customer contacts**— Documentation of all correspondence or notes from all personal conversations with the debtor (this is especially important if a dispute is involved).

Be sure you know who actually owes you the money. This should have been taken care of with a carefully constructed credit application and reference checking, but it bears repeating.

Occasionally, a creditor will have a company name but will have no idea whether the company is a corporation, sole proprietorship or partnership. The person who placed the order is not necessarily the person responsible for the debt. Attorneys can't file a lawsuit if they don't know who to sue.

In credit management, as in every area of your business, failure to make a decision is in itself a decision, and often an incorrect one. Selecting and working with a commercial collections professional will result in increased collections and a better looking bottom line for your business. **ABJ**

Geoffrey Price is an attorney and shareholder with Hancock & Piedfort, a full-service Austin law firm with concentrated practice in real estate, commercial collections, estate planning, litigation, bankruptcy and business formation. He has over 18 years experience in commercial collection and frequently lectures on the subject.