



SLATER, TENAGLIA, FRITZ & HUNT, P.A.

Collection Newsletter – May 2009

COLLECTION SOLUTIONS

IN A TOUGHER ECONOMY. The Commercial Collection Association (“CCA”) recently reported that commercial account placements in 2008 increased to a record level. However, in the same report, the CCA released the results of a survey of 80% of its members who reported a median decline of over 5.5% in collectability. Now more than ever, creditors should place delinquent accounts with third-party debt collectors more quickly and utilize the resources of an aggressive pre-litigation/non-litigation program.

Our current partnership with Receivable Management Services (“RMS”) combines the strengths of a collection agency with the expertise of a collection law firm to maximize collection results. Through the persistence of non-attorney collectors and the involvement of Slater, Tenaglia, Fritz & Hunt collection attorneys, account debtors cannot ignore or use attorney threats to avoid paying just debts. In this challenging economy, use of an experienced collection law firm provides the essential leverage creditors need to collect monies on all types of accounts.

PRE-LITIGATION CASE STUDIES

- Attorneys are useful. Last week, our law firm successfully resolved an insurance premium collection matter where the debtor, a doctor’s office, refused to respond to our client’s numerous in-house collection demands. However, after receiving a collection

letter from our law firm and several follow-up collection calls, the debtor had his attorney contact our law firm. The attorney wanted to discuss the case with another attorney and communicated that his client admitted owing the entire \$16,000.00 plus balance, but needed a payment plan. Acceptable payment terms were then negotiated on behalf of our client.

This case demonstrates the effectiveness of our collection agency-law firm pre-litigation/non-litigation partnership. Some attorneys, for whatever reason, prefer to speak to another attorney when settling a debt collection matter. Here, the persistence of non-attorney collectors coupled with the aggressiveness of Slater, Tenaglia, Fritz & Hunt resulted in the successful resolution of a large account without the need for litigation.

- Persistence and Escalation. Our law firm received a phone call recently on a commercial account, where the debtor owed less than \$1,000. The debtor communicated to our law firm that he wanted to settle the account to stop the phone demands and because he did not want his company to be sued.

This case demonstrates that the persistence of non-attorney collectors combined with the involvement of a collection law firm provides effective leverage to collect, even where our client did not want to file suit.

ABOUT OUR LAW FIRM

Slater, Tenaglia, Fritz & Hunt, P.A. specializes in debt collection, creditor’s rights and complex commercial litigation. Since 1976, we have represented National Collection Agencies, Fortune 500 Corporations, Atlantic City Casinos and Hospitals in debt collection matters. Our experienced attorneys handle debt collection cases in a variety of industries from the pre-litigation stage of the collection process through post-judgment execution. Our Firm is consistently rated among the top commercial law firms in the country for debt recovery. The Firm represents creditors in Federal Bankruptcy Court and defends clients in a variety of civil actions in State and Federal Court.

Slater, Tenaglia, Fritz & Hunt has four offices throughout New Jersey and New York and handles debt collection and creditor’s rights cases for clients throughout the country.



AGGRESSIVE LITIGATION SOLUTIONS WHEN A DEBT IS

NOT IN DISPUTE. In the current economic climate, our law Firm is not only seeing an increase in the amount of claims placed for attorney service, but also an increase in the size of the claims. Clients often ask if there is anything that can be done to expedite the litigation process. Clients are concerned that a debtor will go out of business and that they will be left with an uncollectible, large-balance receivable.

In the State of New Jersey, there is an aggressive statutory remedy that some creditors can pursue – it is called a receivership application. Under New Jersey law, a creditor can apply to the Court for the appointment of a statutory receiver if certain criteria are met. Where a creditor is not being paid because a debtor has suspended its ordinary business for lack of funds or is insolvent, a court can move in a summary manner to appoint a receiver to take control of debtor's assets and pay its creditors. Insolvency is defined by N.J.S.A. 14A:14-1(f)(2) as a "corporation that cannot pay its debts as they become due." Courts may also issue a temporary restraining order to prevent the dissipation or transfer of an insolvent debtor's assets following a review of the available legal remedies, the likelihood of substantial immediate and irreparable harm and the probability of eventual success on the merits.

Our law firm will pursue this aggressive remedy on behalf of a client at the inception of a case (this remedy can also be pursued post-judgment) through the filing of an Order to Show Cause application in Chancery Court. If the Chancery Judge grants the Order to Show Cause application, the debtor will be directed to appear in Court within 30-40 days and must retain an attorney to oppose the application. This remedy often creates leverage for a creditor to quickly collect on its open item since a debtor may not want to risk having the Court appoint a statutory receiver to take control of its business.

This aggressive approach limits the opportunity of a debtor to take advantage of the sometimes-lengthy time constraints imposed by traditional litigation. Instead, a debtor is quickly forced into court to explain to a Judge why they are not paying the creditor.

- **Recent Case Study.** Client placed a claim for approximately \$60,000.00. It was clear that the debt was not disputed and that the debtor corporation was in financial distress. We quickly filed a receivership application on behalf of our client. The Judge granted our Order to Show Cause application and directed the debtor to appear in Court. As it turned out, the debtor was in the middle of selling its business. Rather than risk disrupting the deal, the debtor borrowed money and over 8 weeks made payments toward the open item. While debtor made payments, we postponed the Order to Show Cause hearings, since a resolution was pending. Ultimately, the sale of the debtor corporation fell through and the debtor closed its doors, but not before we collected \$50,000.00 for our client. In this case, without the aggressive approach of our Firm, this substantial open receivable would not have been collected

DID YOU KNOW THAT IN NEW JERSEY ...

- Judges are appointed by the Governor to serve a seven-year term. After seven years, if the Governor reappoints a Judge, the Judge has tenure and can remain on the bench until age 70.

Monthly Collection Tip

Place delinquent accounts for third party collection sooner rather than later. Older accounts tend to be harder to collect both prior to suit and in litigation.

FOR MORE INFORMATION VISIT: WWW.STFHLAW.COM

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