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### **Working with collection agencies**

If you are a credit manager it's a universal fact that you will receive solicitation calls from collection agencies. Period. They always seem to call when you are deep in month end reports and have an emergency credit hold that you are trying to resolve by 3:00 PM. The call comes in at 2:57 PM and they insist on using the latest sales techniques they were just "coached" on. A "No" means "Yes", and by all means answer a question with a question to control the conversation. Your goal is to be polite and professional - but try as you may, it usually ends with the caller being put out that you aren't willing to drop everything and give them your "hard to collect" accounts. [Needless to say you don't know them from Adam]. Many times, after you are successful in telling them "No" they simply hang up on you or tell you a thing or two first, and then hang up on you. One way to help prevent this reaction is to take the time up front to get their full name and the complete name of their organization. It wouldn't hurt to get their phone number and manager's name and number as well. I think most solicitors would give you this information up front - then at the end of the call they may be more inclined to listen to you.

But hold on, this article isn't about how bad collection agencies are, and in fact, we all need them; but rather on how to be able to weed out the good ones from the "other" ones.

Let me recount an experience that happened to me, many years ago, while I was still rather green. I received a sales solicitation call from a collection agency in Florida [first red flag – at that time] who sold me on the idea to give them an account for collection. I did, and they collected in full. Unfortunately, they "forgot" to remit the proceeds to my company and the long and short of it was, "we got taken". I never called to verify their license or bond or to inquire on any insurance; I never called any references, I never did any investigation on how lax the state of Florida was when it came to collection agencies and the end result was that we lost out. That was a well learned lesson that I never forgot. The result? I'm a bear to deal with when it comes to agencies, but I'm fair and always professional. Today I would never consider doing business with an agency that just called me out of the blue. If by chance they dazzled me with some verbiage, I would then start my investigation by what I'm calling:

#### **The Rausch 10: {The most important questions to ask your agency}:**

1. Make sure the agency you choose is insured, licensed and bonded, as well as licensed to collect in other states. A good bond can be an insurance hedge against

an agency going bad; and you should be covered, as long as they were bonded at the time of any “transgression”.

2. I would recommend that you use agencies that are members of the American Collectors Association [<http://www.acainternational.org/>] OR the Commercial Collection Agency Section of the Commercial Law League of America [<http://www.clla.org/> - click on “sections” and click on “Commercial Collection Agency Association”]. This will insure that you’re dealing with ethical professionals who are fully bonded to guarantee your remittance. These organizations provide standards and training and require the agencies to follow the Fair Debt Collection Practices Act and to adhere to all of the guidelines of state and federal debt collection laws.
3. Find out if they have handled collections from businesses within your industry and if they have, then be sure to check those references. Ask what their success rate is within your industry.
4. Google search for any current, past or pending litigation
5. What is their collection/skip tracing philosophy? Any good agency will have access to online search resources and telephone databases to help locate debtors who have disappeared. I don’t want an agency going after an owner of a defunct corporation if I don’t have a personal guaranty; or calling neighbors telling them that they live by a “deadbeat”. In these situations, some agencies may still pursue the owner, thinking they may be able to “wear them down” and get a payment. That’s not ethical and that’s not what I want.
6. Having an “Errors and Omissions Liability” insurance policy can help you and your collection agency. This can help protect against lawsuits from debtors for perceived “harassment” and other potential problems. Also, such a policy can be a sign of a collection agency that is both professional and responsible.

Remember, a collection agency is **your** representative and a potential liability for you depending on how they “behave”. A claim against your agency is a claim against you.

7. Once you find an agency, it’s ok to work with them on a trial basis - try a few different agencies and see which one works best for you.
8. Ask about their pricing. Some collection agencies may keep a percentage as low as 10%, while others may retain up to 50% of the recovered funds. [Second placements and very old balances will usually be at a higher rate.]

Fee structures can also be a flat {hourly} fee, as well as a percentage of what is collected. Determine what works best for your circumstance. You may have one account on a percentage, and another on a flat hourly fee.

But I'm not necessarily impressed with lower rates – I find that you really do get what you pay for. Remember to always balance the commission charged with the agency's success rate. If your agency charges 25% but has a higher recovery rate, they may in effect be more cost effective than an agency that has a lower rate of say 10% but with a lower recovery rate. Everything is relative.

9. Does the agency have a Consumer Credit License and Data Protection registration? Any legitimate agency will show you the necessary documentation to verify this. {This may be important to you even if you only place business claims because it shows that they have the necessary licenses and protections in place and speaks to their business ethics and efficiencies}. It is also relevant if you have personal guarantees and they have to go after the individual owner.
  
10. Does the agency practice overseas and if so, are they able to effectively handle any foreign claim? Language skills and overseas contacts are necessary for success in this area. (This would also apply for intra state collections – is the agency bonded and licensed in all 50 states?)

### **Second Placements Anyone?**

You also want to be wary of an agency calling you out of the blue begging for second placement accounts. They will tell you that they “respect your relationship with your current agency” and that “they don't want to interfere” with that relationship. “Just give us those hard debtors that “no one else” can collect on”. They will tell you that second placements are their “forte and we want to show you how well we can do!”. Throw us your junk!! And we will deliver!! That seems to be their line; their moniker should be “Agencies for Junk”.

**But be wary!** I've heard of agencies that beg for this type of business and then turn around and pay the claim themselves\* {obviously on smaller claims}. Then they come back to you showing that they collected on an account that one or more agencies may have already pounded to a pulp.

Now this upstart comes along from nowhere and bleeds the money out of a turnip. They remit to you and you think they are some sort of miracle worker so you decide to not only give them all your second placements, but most of your new business as well. If they did that well on a second placement {that everyone else got nowhere with}, think what they will do if they have the claim on a first placement.

\*Most agencies are honest and reputable – just be wary of a call in the dark from an agency you have never heard of that begs for second placements. If you have had such an experience, some digging may reveal that they paid the claim themselves. After all, it's much cheaper than flying out to meet with you and take you to lunch asking for your business.

I had one agency after me for second placement business. I told them that my policy was

that all “remittances on second placements must be accompanied with a copy of that remittance”. This agency was gone so fast I don’t remember seeing the door close on the way out. They at first questioned my “policy” and when I stuck to it they disappeared. Mmmmmmm. Very suspect. The point is, “**Know your agency** – because they represent you and will either aid or hinder your bottom line.

Remember **never** to place the same account with two agencies at the same time. This is a violation of the FDCPA {for consumer debt} but you will also run into problems with commercial debt.

If you have one claim closed with one agency, and you want to place it with another, make sure you go through a formal close out with the first agency before you place it with the second. Many agencies may close a file as “uncollectable” but still keep a “lien” on that claim in the event the money surfaces sometime in the future. Making sure the claim is officially closed, with no liens attached will make things much easier for you when placing an account as a second placement. Too many credit managers forget to do this important step and then find themselves owing commissions to two different agencies for one remittance.

#### **What do you look for in an agency?**

Eventually I found the current agency that I am still working with and one of the reasons that I started doing business with them was because I knew the owner. So I felt safe. But as the relationship grew I also learned what was best about an agency and would like to spend the rest of this article highlighting what, in my opinion, are the three most important requirements needed in order to be the best of the best in collection agencies.

**Communication, communication and then communication:** To me that is paramount because everything else is built upon that. If you don’t have an open and honest communication with an agency problems can arise.

I once had an agency that was difficult to communicate with. I would call and very seldom get a return call. When I did, the person on the other end of the phone was uninformed and obviously not well versed in the area of collections or credit law. I also received a written correspondence from them once that stated “XYZ debtor was being forwarded to an attorney for immediate suit, per my request”. The only problem with that was they had the **WRONG** debtor. Needless to say I wasn’t too impressed.

You want an agency that will return your calls, answer your letters and even pay you a visit from time to time. You also want an agency that isn’t afraid to level with you and let you know when an account is uncollectable and should be written off against your bad debt reserve. Why kick a dead horse?

Since agencies deal with collection law all the time you should also be able to call them from time to time about some general collection questions. If they have an attorney on staff, don’t be shy to ask for advice if you have a problem come up. After all, they are working for you and helping your bottom line – if they are open and available for these

“extras” why not use them? In the end, it may help them when you have to place the account in collections, so don’t be shy to ask questions.

**Knowledge and the willingness to share:** Some agencies just take your claims and then fall into a black hole. The only information they are able and willing to share is that which pertains to your specific claim. I like to know that I can call my agency and discuss a problem in general and get ideas and suggestions to help *prevent placing an account in the first place*. I also have run my credit applications by my agency’s attorney for feedback because they know that is the document they will use in the event an account ever comes their way. They want my credit application to be as solid as possible for when they receive the claim to increase their success so they are willing to take the time to review my application and give me suggestions or the “go ahead”, if it looks good. In this way, they know they are helping to enhance the collectability on future claims that they do receive.

This is the type of agency that is concerned about your bottom line and is willing to go the extra mile. Ask your agency what they are willing to offer as far as knowledge and advice in these and other areas - you just might get what you ask for.

Business collections can get quite complicated – make sure your agency is well versed in collection and credit law. It can make the difference between success and that infamous dead horse that some agencies like to kick around.

**Results:** Of course none of the previous two requirements matter if they can’t collect your money. Who cares if they are the greatest communicators and have all the knowledge in the world if they can’t produce? Obviously you won’t know about this one until you “give them a try”, but if they come with references, are verifiably bonded, and are a stable business you should be able to give them business without fearing the worst.

I recommend using at least two agencies and then keeping detailed records of the placements, recoveries and expenses for those recoveries. This will serve two purposes.

**One**, it will help each agency maximize their efficiencies if they know they are in direct competition with another agency and **secondly**, it will keep you diversified.

Collection agencies are necessary in the business world, but it’s nice to know that we do have a selection and we do have the power of choice. Use it wisely.