SURVIVAL OF THE FITTEST FACTOR

FEATURE ARTICLE BY SCOTT WINICOUR

ALSO INSIDE:
Federal Reporting Obligations
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TABLE OF CONTENTS

VOL 18 | No. 1 | FEBRUARY 2016

EXCITEMENT BUILDS FOR THE 2016 IFA FACTORING CONFERENCE
By Heather Villa

SURVIVAL OF THE FITTEST (FACTOR): STAYING RELEVANT IN A CHANGING INDUSTRY
By Scott Winicour

ECONOMIC CHALLENGES AND OPPORTUNITIES IN 2016
Q & A with Economist, Dr. Barry Asmus

FEDERAL REPORTING OBLIGATIONS: US FACTORING COMPANIES WITH FOREIGN SUBSIDIARIES, FOREIGN OWNERS OR FOREIGN CLIENTELE, BEWARE!
By Robert M. Schechter and Pamela R. Kaplan

GLOBAL CONSUMER TRENDS AND FUTURING
Q & A with Sheryl Connelly, Ford Motor Company

COLUMNS

WHAT’S NEW AT IFA

FINANCING THE MARIJUANA INDUSTRY—A HIGH LEVEL PERSPECTIVE
By Steven N. Kurtz, Esq.

SMALL TICKET FACTOR: MAKE THEIR FACTORING WORK MATTER
By Don D’Ambrosio

ADVERTISER INDEX

FactorFox Software, Inc. ........................................ 31
FactorsNetwork ..................................................... 19
FactorView ............................................................ 21
First Corporate Solutions ...................................... 32
HubTran, Inc............................................................. 2
International Factoring Association ........... 9, 18, 22
Loeb Term Solutions ............................................. 6
ProfitStars ............................................................. 8
RMP Capital Corp. .................................................. 14
Tax Guard, Inc......................................................... 12
Utica Leasco, LLC................................................... 21
Since the IFA’s inception almost 17 years ago, significant changes have taken place with our association and within the industry as a whole. With the number of factoring companies growing at an exponential rate, we are continuously looking for ways to improve our association with more educational content, first-rate conferences and valuable membership benefits.

This year, we are providing a variety of training classes and webinars that will appeal to professionals of all levels and skillsets. Best Practices from Best Factors is a new advanced course we are offering that will cover a diverse list of topics that are essential to running a successful factoring operation. Another new training course that will appeal to both novices and experts is the Credit & Collections Training Class that will help attendees master “the art of getting paid”.

The IFA continues to offer webinars as a powerful training tool to disseminate valuable information in a cost-effective way. Some of our upcoming webinars include Financial Statement Analysis, Factoring Healthcare Receivables and Digital Invoice Delivery & Payments to name a few.

The Annual Factoring Conference continues to exceed expectations every year with informative, high-quality content, unparalleled networking opportunities and dynamic speakers. Professionals from all over the world will convene April 13-16 in Scottsdale, Arizona to learn about the latest developments, issues and challenges that our industry faces, while networking with friends, peers and industry experts.

One of the most important topics that will be discussed at the conference this year is the potential regulation that the factoring industry faces and the effect it will have on individual businesses. The AFA continues to work hard and make strides in protecting our industry’s future. The importance of this association is more evident than ever before due to the recent trends in Washington and the imminent threat that exists. Numerous meetings with various members of congress have occurred and will continue in order to help build support for the factoring community.

As the challenges and opportunities present in the factoring industry constantly change, the IFA will continue our commitment of providing valuable information, ideas and education to better the industry and our members.
INDUSTRY NEWS

ProfitStars, ICBA Expand Preferred Service Provider Relationship
Jack Henry & Associates, Inc. (NASDAQ: JKHY) is a leading provider of technology solutions and payment processing services primarily for the financial services industry. Its ProfitStars® division announced the addition of Relationship Profitability Management™ (RPM) and Commercial Lending Center™ to the Independent Community Bankers of America® (ICBA) Preferred Service Provider program.

Marquette Transportation Finance Named as ATA Featured Product Provider
American Trucking Associations (ATA) welcomed Marquette Transportation Finance, an industry leader in providing working capital financing to trucking companies, as its latest Featured Product provider.

“Financing operations and investing in the growth of your business are two of the most difficult challenges facing many of our ATA Member companies in the trucking industry. Marquette Transportation Finance offers versatile financing that allows you to grow your business and keep operations running efficiently,” said ATA President and CEO Bill Graves. “The Marquette Transportation Finance team works alongside transportation companies to best meet their needs in a dynamic transportation marketplace.”

“We are excited about the opportunity to participate in ATA’s Featured Product Program. We look forward to joining a select group of companies dedicated to providing exceptional products and services to the trucking industry,” said Rich Voreis, president and CEO of Marquette Transportation Finance.

Far West Capital Provides $2.5 Billion in Financing to Entrepreneurs
Far West Capital, a privately funded commercial finance company headquartered in Austin, has funded $2.5 billion in financing to high-growth entrepreneurs since its inception in 2007, with over $850,000,000 provided in 2015. With more than 250 clients served across the country, Far West Capital will continue to fund more companies in 2016. 2015 was another momentous year for Far West Capital, with new locations opening in Washington, D.C. and Cleveland, adding to its existing offices in Austin, Dallas, El Paso, Atlanta and Los Angeles. Since launching its social impact initiative, Far Reaching®, in early 2014, the social impact campaign has raised more than $190,000 for selected charities, including Grameen America, a nonprofit that provides loans, savings programs, financial education and credit establishment to women who live in poverty in the United States. In 2015, 1,073 women entrepreneurs in Austin were lifted out of poverty through Grameen America.

The International Factoring Association’s (IFA) goal is to assist the factoring community by providing information, training, purchasing power and a resource for factors. The IFA provides a way for commercial factors to get together and discuss a variety of issues and concerns about the industry. Membership is open to all banks and finance companies that perform financing through the purchase of invoices or other types of accounts receivable.

The Commercial Factor is published bi-monthly by the International Factoring Association. To subscribe, please email info@factoring.org.

The Commercial Factor magazine invites the submission of articles and news of interest to the factoring industry. For more information on submitting articles or advertisements, email news@factoring.org, or call 805-773-0011.

The views expressed in the Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.
INDUSTRY TRANSACTIONS

Loeb Term Solutions Finances Over $6.2 Million Dollars Worth of Industrial Equipment in January Providing Solutions for 3 More Manufacturers

Chicago-based lender, Loeb Term Solutions, closed January by financing over $6,800,000 dollars’ worth of industrial machinery and equipment. The financing is helping a coal mining operation, a southeast plastics manufacturer, and an oilfield construction firm expand their businesses in order to meet the demands of their industries.

Utica Leaseco, LLC Closes and Funds $470,000 Transaction During the Week of February 1, 2016

Utica Leaseco, LLC announced the completion of a new Capital Lease transaction in the amount of $470,000 during the week of February 1, 2016. The transaction helped provide needed growth capital for a family owned and operated concrete company located in Texas. Utica was able to provide the needed capital by unlocking the equity that existed in the company’s concrete and aggregates equipment. Utica was able to assist this important American business by financing their equipment, not their credit.

CapitalPlus Equity provides Revolving Factoring Facilities to Subcontractors

CapitalPlus Equity provided a revolving factoring facility for $78,000 to a painting subcontractor in Delaware. CapitalPlus Equity provided a revolving factoring facility for $118,000 to a lighting subcontractor in Texas.

Hitachi Capital America Funds $1.4 Billion in Trade Finance Transactions

Hitachi Capital America Corp. announced that its newly-formed trade finance division funded more than $1.4 billion through December 31, 2015 and plans to fund more than a total of $2 billion in its fiscal year ending March 31, 2016. Hitachi Capital America offers true sale receivables purchase, payables finance facilities, and inventory procurement services through its trade finance division.

Prestige Capital Closes $18.7 Million in New Business

Prestige Capital Corporation closed $18.7 million in new business transactions in late December 2015 and January 2016. The following factoring transactions closed in late December 2015 and January of 2016:

- West Coast Nutraceutical Company—Refinance and Growth Capital—$10 million
- Northeast Sand Mine Company—Growth Capital—$1 million
- Northeast Rock Quarry—Growth Capital—$500,000
- NY Based Digital Media Company—Growth Capital—$3 million
- New England Software Developer—Growth Capital—$750,000
- Midwest Bulk Materials Handling Company—Refinance—$2 million
NY Based Advertising Agency—Growth Capital—$1 million
Northeast Reseller of Computer Microchips—Management Buyout—$500,000

**Interstate Capital Posts 20% Increase Over January 2015**
Interstate Capital Corporation, a factoring company based in Santa Teresa, NM, reported a 20% increase in new client originations in January 2016 over January 2015. "With the expansion of our outbound call center," says Sarah Williams, national sales manager, "we were able to grow with improved technology." A majority of last month's new clients came from the transportation industry. "Every January, we historically see new trucking companies and freight brokers forming," she adds. "We signed significantly more start-ups than during the same period last year."

**Crestmark Announces January Transactions**
Crestmark secured a total of $11,185,000 in financial solutions for 11 new clients in the first half of January. Crestmark secured a total of $10,715,000 in financial solutions for eight new clients in the second half of January.

**TAB Bank Provides Transportation Company with $1.2 Million Revolving Credit Facility**
TAB Bank provided a $1.2 million revolving credit facility for a transportation company based in Georgia. The facility is based on accounts receivable and will provide for the company's ongoing working capital needs.

**Bibby Financial Services Funds Oil & Gas Service Provider with $3 Million Asset-Based Lending Facility**
Bibby Financial Services announced a major lending deal for early 2016—a $3 million asset-based loan provided to a Florida-based provider of skilled labor for the oil and gas and marine industries. Bibby Financial Services was referred to the company after its previous lender reduced its commitment to serving the oil and gas sector. Funding from Bibby Financial Services allowed the company to mobilize staff for pending projects and promptly pay key suppliers.

**Broker Refers California-Based Staffing Company to GCBC for its Invoice Factoring Needs**
Gulf Coast Business Credit (GCBC) recently funded a $4 million working capital facility to a California based staffing company that was referred by a broker specializing in staffing factoring.

**Summit Financial Resources Announces Recent Deals**
Summit Financial Resources started 2016 strong, sending $4.5 million in working capital financing out the door during the first 10 days of January. Summit funded a $2,000,000 A/R credit line to a professional services firm in the Upper Midwest, a $500,000 A/R credit line to an occupational consulting firm in the Midwest, and a $2,000,000 A/R & Inventory line to a manufacturer of chemical products in the Intermountain Region. Other recent Summit fundings include a $200,000 A/R credit line for a manufacturer of molded foam products in the Southeast, a $300,000 A/R credit line to an apparel manufacturer in the Pacific Northwest, and a $300,000 A/R credit line to a data storage device firm in Southern California.

**Veritas Closes $3 Million DIP Loan for Equipment Rental and Services Company**
Veritas Financial Partners has completed a $3 million debtor-in-possession financing for an equipment rental and services company to support its recapitalization in the face of challenging industry conditions. The facility will be used to repay the existing lender and for working capital needs during reorganization.

**Phoenix Capital Group, LLC Provides Working Capital Solutions to 184 New Clients in 31 States in 2015**
Phoenix Capital Group, LLC provided working capital solutions to 184 new clients in 31 states across the country, representing $38,310,000 in approved credit facilities during 2015.
Alleon Healthcare Capital Closes a $1,000,000 Medical Accounts Receivable Factoring Facility with a Michigan Toxicology Laboratory

Alleon announced the closing of a $1,000,000 medical accounts receivable factoring facility with Crescentox, Inc. (“Crescentox”). Crescentox is a clinical medical laboratory headquartered in Southfield, MI that specializes in procedures that determine and measure the presence or absence of substances and organisms in the body. Crescentox works primarily with substance abuse centers, pain management clinics and medical facilities that specialize in auto injury cases. Its owners recently purchased the laboratory in mid-2015 and are utilizing Alleon’s medical accounts receivable factoring facility to stabilize cash flow from insurance carriers.

DS-Concept Provides $1 Million Export Factoring Facility to Indian Home Textiles Manufacturer

DS-Concept Factoring, a global commercial finance company specializing in international non-recourse factoring, has provided a $1 million export accounts receivable facility to a family-owned home textiles manufacturer in India. The client, exporting linens to Europe, North America and the Middle East, is implementing this facility to support the increased demand for open account payment terms from their overseas buyers. With the export factoring facility in place, the client anticipates an annual factored volume of $5 million-$8 million.

Eagle Business Credit and Cashway Funding Complete $2.4 Million in New Financing to Small Businesses in 4th Quarter of 2015

Headquartered in Atlanta, GA., Eagle Business Credit is a privately held factoring company, launched in November, 2013. Eagle Business Credit ended 2015 with several new clients on the books. Eagle Business Credit also funded several Purchase Order Funding transactions which totaled over $150,000 in financing to clothing distributors. Cashway Funding, the specialist Transportation factoring division of Eagle Business Credit funded over 15 new clients with funds employed of $500,000 for the quarter.

PERSONNEL

Curt Queyrouze Named President of TAB Bank

TAB Bank has appointed Curt Queyrouze as President. Most recently, Queyrouze served as TAB’s Chief Credit Officer for the past two years. He will be based out of TAB Bank’s corporate headquarters in Ogden, UT and will oversee all strategic, financial, and operational functions of the bank. Queyrouze has amassed over 30 years of commercial finance and commercial banking experience.

Crestmark Transportation Division Hires Cory Turner as Vice President, Business Development Officer

Crestmark announced the addition
of Cory Turner as vice president, business development officer for the Transportation Division, which is located in Greater Nashville (Franklin), Tennessee. Turner will provide financial solutions to companies in the transportation and logistics industries nationwide. Turner reports to Heath Holdbrooks, executive vice president, and president of the Transportation Division.

DS-Concept USA Appoints Charles Doc Lundberg as West Coast Vice President of Sales
DS-Concept USA appointed Charles Doc Lundberg as Vice President of Sales in the newly established Los Angeles office. Lundberg will oversee business development activities in the western region of the US and focus on structuring supply chain finance and export factoring programs for small and middle market companies.

Crestmark Transportation Division Announces Promotions
Heath Holdbrooks, executive vice president, and president of Crestmark’s Transportation Division, announced promotions at the division’s offices in Franklin (Greater Nashville), Tennessee. Lynne Farrar was promoted to first vice president, underwriting manager from vice president. Bonnie Helgesen was promoted to vice president, account executive from assistant vice president. Sherri Holmes was promoted to vice president, account executive from assistant vice president. Kim Meek was promoted to vice president, account executive from assistant vice president. Phyllis Packard has been promoted to assistant vice president, legal compliance, from officer.

Loeb Welcomes Tim Serritella to the Team as Vice President of Business Development
Loeb announced the addition of Tim Serritella to the team as Vice President of Business Development. He joins the rest of the Loeb team in focusing on expanding the company’s equipment-based lending portfolio, appraisal services, and off-lease remarketing services. Tim is based out of Loeb’s global headquarters in Chicago and will be working with lead sources throughout Chicago, Illinois, Wisconsin, and all states west of the Mississippi providing equipment based financial solutions.

Crestmark Promotes Swanson in Field Exam; Pascua in HR; Kelly and Chmiel in IT
Crestmark President and Chief Operating Officer Mick Goik announced promotions at the company’s corporate office in Troy, Michigan. Mike Chmiel was promoted to vice president, systems engineer from assistant vice president. Don Kelly was promoted to senior vice president, chief technology officer from first vice president, director of IT. Roland Pascua was promoted to first vice president, human resources director from vice president. Andy Swanson was promoted to senior vice president, field exam manager from first vice president.

Bibby Financial Names Phillips as Analytics and Data Management Officer
Bibby Financial Services hired Feon Phillips as Analytics and Data Management Officer.
As a seasoned marketing analyst with more than 15 years of experience, Phillips will use her analytical insights and leadership skills to analyze data records for a variety of industries in North America. She will be responsible for supporting customer acquisition and retention efforts through business intelligence.

Chris Lehnes Joins North Mill Capital LLC as SVP, BDO
North Mill Capital LLC announced Chris Lehnes, a 20+ year veteran of small business lending, has joined the firm as Senior Vice President, Business Development Officer. Lehnes has been charged with developing asset-based lending and factoring relationships with businesses needing credit facilities from $100,000 to $30 Million.
With attendance already surpassing previous records, this April, in Scottsdale, Arizona, will be the largest gathering for the Factoring industry. From startups to some of the largest commercial finance companies in the world, the IFA Factoring Conference has more representation of the Factoring industry than any other event. With over 60 speakers and an exhibit hall with over 50 vendors, if you are involved in this industry then you will not want to miss this world-class conference.

BY HEATHER VILLA

Scottsdale, Arizona, has been described as the desert version of Miami’s South Beach, making it a perfect destination for those looking for sunshine and sophistication while traveling out west. This city not only has a gorgeous desert backdrop, but a bustling downtown area with high-end shops and world-class restaurants. No travel to Scottsdale would be complete without some sort of extravagant pampering, considering the city has more spas per capita than anywhere else in the country. My favorite just happens to be the Well & Being Spa conveniently located at the Fairmont Scottsdale Princess.

Speaking of the Fairmont Scottsdale Princess, whether you plan to meet, play or simply relax between conference events, this breathtaking resort offers you world-class hospitality. With four top-ranked Arizona restaurants, innovative spa and fitness programs, six sparkling pools and two newly renovated 18-hole
championship golf courses, this highly acclaimed Scottsdale resort is truly an experience like no other. No visit to Scottsdale would be complete without a round of golf at the world renowned TPC Stadium Scottsdale. Here you can join in our own golf tournament before the conference kicks off to meet new colleagues and take in the surroundings of the beautiful Sonoran desert. Even though Scottsdale is known for golf, there is much more to see and experience while visiting the Valley of the Sun. Other activities we have arranged are an Old Town Scottsdale Food Tour and a trip to the Grand Canyon. Guests of conference attendees also have the opportunity to sign up for the Taliesin West tour, which is a national historical landmark and the vibrant home of the famous architect Frank Lloyd Wright.

The 2016 Annual Factoring Conference will provide an abundance of dynamic, thought provoking sessions that go to the heart of all matters relating to Factoring and Asset Based Lending.

**SPEAKERS**

- **Sheryl Connelly**—Ford Motor Company—How to Think Like a Futurist  
- **Captain Mark Kelly**—NASA—Endeavour to Succeed  
- **Dr. Barry Asmus**—Economic Forecast  
- **Toby Groves**—The Psychology of Fraud  
- **Bob Zadek, Esq.**—The Psychology of Fraud  
- **Mac Fulfer**—Understand Your Clients  
- **Amy Balciunas, CAEF**—Factoring 101  
- **Blaine Waugh**—Sales 101  
- **David Jencks, Esq.**—Transportation Factoring

**PANELS**

- Notices of Assignment  
- Credit & Underwriting  
- MCA’s—Friend or Foe?  
- Legal Panel  
- Factoring Fundamentals (Wednesday—Additional fee)

**ROUNDTABLES**

- Roundtable for Women in Commercial Finance  
- Roundtable for Senior Executives  
- Roundtable for Young Professionals  
- Roundtable for Attorneys  
- Roundtable for Operational Issues  
- Roundtable for Small Factors

**INTERNATIONAL SESSIONS**

- Reverse Factoring and Supply Chain Financing with Latin America  
- Differences between US and European Factors  
- Update on Factoring Around the World  
- Working with Chinese Factors  
- New Technologies to Finance Foreign Receivables  
- Canadian Legal Update  
- Doing Business in Western Canada

Networking won’t be an issue this year, with more dedicated networking time than ever before. These invaluable opportunities provide access to some of the highest caliber of industry experts and peers in the commercial finance industry. The conference will kick off with the Bibby Welcome Reception on Wednesday evening. Companies that have become new IFA members over the previous year will be invited to attend a New Member Reception that evening to become familiar with the association, meet industry leaders and other first-time attendees. The IFA Northeast Chapter will also be holding a reception on Wednesday evening. Thursday we will have a reception in the early evening and a Tax Guard Dessert Reception later that night. Friday evening is our Closing Event at Los Cedros. Enjoy dinner, drinks, and see one of the most unique horse shows in history. This stunning Moroccan Citadel is a place so extraordinary that few who visit here go unchanged by the experience. The enchanting company of world-class performance horses, with the beauty of the setting sun behind the glorious Scottsdale Mountains, make Los Cedros the perfect event oasis to close out the conference.

Whether you are a Factor, Asset Based Lender, trade finance professional, bank, or anyone that supports this group, join the top industry professionals by attending this unparalleled networking and educational event. Rooms at the Fairmont are going fast, so book yours now. •

**REGISTER FOR THE 2016 ANNUAL FACTORING CONFERENCE AT WWW.FACTORINGCONFERENCE.COM.**
Public records searches miss 60% of outstanding tax liabilities. Tax Guard can show you what you’re missing.

See Tax Problems Before You Fund
Tax Guard reports provide 10 years of borrower tax compliance with missing tax returns, tax deposit verification, and lien filings to measure your risk prior to funding.

Monitor Tax Issues While You Fund
Monthly monitoring includes proactive alerts to notify you of potential risks.

Solve Tax Problems So You Can Fund
Our tax experts offer transparent resolution strategies for you and your borrower to ensure no disruption to the funding relationship.
The sheer variety of small business lending alternatives is exploding nearly as fast as technology evolves. What does this mean for traditional US factoring companies that are also chasing this thriving, lucrative domestic market? Innovate now, before you have to stomach the inevitable belt-tightening, as increasingly disruptive online lending puts a huge crimp in our ability to grow portfolios.

As modern small-business lending is unfolding in entirely new ways that leverage technology to make paying for things easier, faster, more convenient, and often, cheaper, factors will continue to lose market share if they don’t start to think differently—evaluating what made them successful in the first place, while adopting new practices that will allow for a more competitive future.

Survival of the Fittest (Factor): Staying Relevant in a Changing Industry

In a marketplace now crowded with non-bank, tech-boosted financing options—reverse factoring, marketplace lending, crowd funding, digitally enabled lenders—cash advance factoring-based businesses cannot afford to maintain a status quo.

BY SCOTT WINICOUR
Research by Forrester recently underscored this trend in its “Age of the Customer” findings, examining how the tech-investment cycle has shifted. According to Forrester, technology management spending in 2016 will grow at a rate of 5% in North America. In contrast, investment in business technology—more specifically, new tools allowing companies to become increasingly customer-centric and engage more deeply with their clients—will double and grow at approximately 10% in the next year. In other words, for factors, and lenders overall, it’s worth considering how this trend will ultimately impact their businesses, if it hasn’t already.

The emerging online lending sector has already made an estimated 1 million loans worth about $12 billion (per a recent Inc. article about online lending) to consumers and small business owners, since its inception a few years ago. And this disruptive model isn’t slowing down anytime soon. In fact, according to a recent article in American Banker, four of the largest online small-business lenders—OnDeck, Kabbage, Funding Circle and Lending Club—are continuing to innovate for growth, incorporating a mix of strategic partnerships, acquisitions and new lending terms. The race for market share is intensifying.

Fueled by the need to scale rapidly, these industry leaders are leveraging big data and the emergent Internet of Things (IoT) for a deeper look into how analytics and device usage drives real-world business decisions and customer relationships. These innovators are translating numbers into action, analyzing how, when and where customers buy and businesses sell, and using technology to deliver at each touch point.

Other online lending portals and third-party funding aggregators are disrupting the factoring market as we know it by focusing on sheer volume. These new platforms, many of which have convinced giants like Pfizer, Walmart, and Home Depot to run supplier invoices through automated systems that process money faster, are able to discount an incredible number of payments...
Scott Winicour is Co-President of Gibraltar Capital Holdings. Scott Winicour began his finance career as an account executive in 1995 at the predecessor to Gibraltar Business Capital (GBC), Gibraltar Financial Corporation, based in Chicago. Earning his way up from the ground floor—learning the sales, credit, operations and underwriting processes—Scott took over the day-to-day operations of GFC in 2005. He also sits on the GBC credit committee and is active in a variety of industry organizations, including the International Factoring Association, the Turnaround Management Association, and the Commercial Financial Association. Scott is a regularly featured speaker and has published several articles for the International Factoring Association. He also serves on the board of directors for the Cancer Wellness Center, a non-profit organization that provides free psychological, emotional, and social support to cancer patients and their families. Scott can be reached by phone at 224-374-1500 or by email at swinicour@gibraltarbc.com.

Looking Forward
To be clear, the free marketplace is alive and well. There’s ample room for competition and plenty of factoring capital to go around. However, ongoing lessons can be drawn from the new lending players, the most important—that factoring companies need to increasingly recognize online lending as a form of direct competition. This is a growing reality that can be addressed with consideration for the following:

- Technology is an essential component across the industry, and embracing how it can enhance your business will prove advantageous in the long run.
- Brand attributes need to be leveraged in order to distinguish your company from the maze of newer alternative finance options. Each factor has a history and story that should be clear, compelling, and differentiated.
- Relationships are still key to driving company growth; the personal element always goes a long way in establishing trust and credibility, and is foundational to our industry.

In this context, conventional factoring brands that want to remain competitive are looking at new ways to grow, such as innovating online; shifting culture and practices to meet specific consumer demands; partnering with leading-edge technology software firms; acquiring companies already established in the tech-finance arena; and rethinking how current differentiators, such as personal service and deal customization can balance automation in speed-to-close.

The bottom line is, those traditional factors that can leverage their vast knowledge and experience, while incorporating a fresh approach to address present day realities, can remain relevant. But factors that fail to adjust to rapidly changing technology advancements, and new players and economic shifts, will be left behind.

Given the pace of change and degree of competition, it’s not an exaggeration to say the time is now or never. •
Economic Challenges and Opportunities in 2016

Q & A with Economist, Dr. Barry Asmus

**1 What are you optimistic about in the new year?**
So many people are talking about economic growth. Growth is not just morally defensible—it’s morally imperative because it eases most of our economic problems. I am optimistic about energy and world urbanization. The US shale oil revolution has forever changed the American oil landscape. The Mideast no longer sets the price and supply for oil, and therefore, have lost their chokehold on America. America now exports oil to a world of declining gas prices, where everyone benefits except those in the oil business. The world is continuing to urbanize as people move from the country into cities. Cities have both hard and soft infrastructure needs. Hard like energy, roads, rails, raw materials, and soft infrastructure like education and technology. The volume of trade around the world promises a new and dynamic phase of globalization that will create unmatched opportunity and foment at the same time considerable volatility.

**2 What changes do you anticipate on a federal and international level?**
I anticipate the Federal Reserve to continue rising interest rates at a slow pace and an improved tax structure dependent on the November election. Lower rates will increase the incentives to work, save and invest, all stunningly positive. On an international level, I believe we will see more countries with significant debt and low growth rates. But there will also be countries invoking new technologies, smart phones, faster communication and business networks producing entrepreneurship that drive economic growth.

**3 In what ways do you think the upcoming presidential election will affect the economy?**
The first thought? Deeply unsettling. A more positive thought? The outcome of the presidential election could mean big changes in tax policy, debt constraint and less regulation. A change in tax policy could incentivize investment and reduce the tax burden on companies and families. The US corporate tax rate is the second highest in the world. We need to consider moving toward lower rates and a simplified tax code.

**4 What can IFA members expect from your session at the spring conference?**
IFA members can anticipate an enthusiastic presentation discussing America’s current economic challenges and bold new opportunities. Unfortunately, real GDP growth in the US has averaged about 2% since 2009, which is very low by historical standards. But it has been stronger than Europe and Japan. Accelerating technological change places unprecedented amounts of information in the hands of consumers and business alike, all of which produce significant growth.

Dr. Barry Asmus is a Senior Economist with the National Center for Policy Analysis. Dr. Asmus was named by USA Today as one of the five most requested speakers in the United States. He has testified before the House Ways and Means Committee regarding our income tax system and was a featured speaker in a privatizing Social Security conference for Western European leaders. On recent trips to Romania, Albania, China and Peru, Dr. Asmus encouraged government leaders to focus on economic freedom.

Dr. Asmus is the author of nine books including *The Poverty of Nations: A Sustainable Solution*, published in 2013 with co-author Wayne Grudem. As a Professor of Economics, he was twice voted University Professor of the Year and was honored with the Freedom Foundation Award at Valley Forge for Private Enterprise Education. Dr. Asmus is an advocate of free market economics and delivers his ideas in an enthusiastic and energy filled presentation.
Federal Reporting Obligations: US Factoring Companies with Foreign Subsidiaries, Foreign Owners or Foreign Clientele, Beware!

Many US factoring companies may be unaware that they are subject to mandatory reporting obligations issued by the US Department of Commerce’s Bureau of Economic Analysis (the “BEA”) if certain criteria are met.

BY ROBERT M. SCHECHTER AND PAMELA R. KAPLAN

Many US factoring companies may be unaware that they are subject to mandatory reporting obligations issued by the US Department of Commerce’s Bureau of Economic Analysis (the “BEA”) if certain criteria are met. Specifically, US factoring companies that are 10% or more foreign (non-US) owned, own 10% or more of a foreign business, or transact business with foreigners, must pay particularly close attention to BEA reporting obligations and deadlines. When BEA reports are due, assessment of the reporting obligation and data gathering can be complex and burdensome; however, a systematized approach to BEA compliance can go far in alleviating the business burden and risk of harsh penalties for noncompliance.

The BEA, through its data collection powers, compiles, analyzes, and publishes key economic data including the gross domestic product (commonly referred to as...
GDP) of the United States. As a principal agency of the US Federal Statistical System, the BEA's data gathering and publications have a direct influence on decision-making by government officials, the business community, and individuals. To fulfill its mission of gathering and reporting important financial statistics, the BEA imposes mandatory reporting obligations on certain parties, including US factoring companies (among many others) that fall within the criteria of being 10% or more foreign owned, owning 10% or more of a foreign business, or transacting in certain business sectors with foreigners. Despite a lack of awareness of mandatory BEA reporting obligations and penalties across some industries, several BEA surveys must be completed and filed whether or not the BEA contacts the parties obligated to report. Below are overviews of several BEA reporting obligations that US factoring companies must keep on their radar.

The BE-180 is a mandatory five-year benchmark survey which tracks financial services transactions between US financial services providers and foreign persons. The original reporting deadline for the BE-180 was late 2015, but the BEA is still collecting this report if not yet filed. A financial services provider has a mandatory reporting obligation if it had either aggregate sales to or aggregate purchases from foreign persons in excess of $3 million in the 2014 fiscal year. A party may also be required to file if it is contacted directly by the BEA.

The BE-12 is a mandatory five-year benchmark survey for US businesses that are 10% or more foreign owned. Included in the data required for the BE-12 is information on US businesses and their foreign ownership. The BEA will be collecting 2017 data in its next BE-12 Benchmark Survey.

The BE-10 is a mandatory five-year benchmark survey for US parties with a 10% or more ownership interest in a foreign business. Although the deadline for submission of the BE-10 with 2014 data has passed, the BEA is still collecting late submissions. The BE-10 requires submission of various categories of financial and transactional data on US parties with an interest in foreign businesses, as well as information on those foreign businesses themselves.

The BE-13 is a mandatory report that is triggered upon the occurrence of specific transactions or events involving US businesses that are or become 10% or more foreign owned. Specifically, establishments, acquisitions, mergers or expansions...
of US businesses that are or become foreign owned in whole or in part trigger reporting obligations to the BEA within 45 days of the triggering event.

Parties obligated to file reports with the BEA often discover that data required to be submitted to the BEA may not be data that is otherwise regularly collected for other business purposes. Moreover, parties who fail to submit BEA reports may be subject to civil penalties of as much as $32,500 and criminal monetary penalties and/or imprisonment for willful failure to comply. Notwithstanding these potential burdens and harsh penalties, BEA compliance can be significantly simplified through a systematic approach to assessment and monitoring of BEA reporting obligations.

For more information or assistance, please contact Porzio Compliance Services at 646-348-6770, info@porziocs.com, or visit www.PorzioComplianceServices.com.

Pamela R. Kaplan, J.D., serves as a Compliance Associate for Porzio Compliance Services, a wholly owned subsidiary of the law firm Porzio, Bromberg & Newman, P.C. Pamela assists clients throughout the US and abroad in identifying their US Bureau of Economic Analysis (BEA) reporting obligations, gathering necessary data, and BEA report completion. Pamela is also an Associate of Porzio, Bromberg & Newman, P.C. and a member of the law firm’s Litigation Group. She can be reached by phone at 973-889-4352 or by email at pkaplan@PorzioCS.com.

As Vice President of Porzio Compliance Services, a wholly owned subsidiary of the law firm Porzio, Bromberg & Newman, P.C., Robert M. Schechter, J.D., guides individual and business clients on the implementation of systematic data collection, analyses and retention policies in order to ensure US Bureau of Economic Analysis (BEA) compliance. He writes and lectures regularly regarding cross border investments in particular. Additionally, as a Principal of Porzio, Bromberg & Newman, P.C. and member of the law firm’s Financial Restructuring and Bankruptcy Department, Robert advises stakeholders in business finance, corporate compliance and restructuring matters. He can be reached by phone at 609-5241838 or by email at rschechter@PorzioCS.com.

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Global Consumer Trends and Futuring
Q & A with Sheryl Connelly, Ford Motor Company

1. **What future development that you consider likely (or inevitable) do you look forward to with the most anticipation?**

I am looking forward to the changing nature of work. I imagine that employment engagements will continue to be shorter. Fewer employers and employees will see the type of 30 years of service that was common for baby boomers. I think that this will act as a catalyst in the marketplace as expertise will both broaden and deepen across categories.

2. **What future development that you consider likely (or inevitable) do you dread the most?**

The widening gap between the “haves” and the “have nots” is alarming. The disparity between rich and poor has exponential implications that can last for generations.

3. **On a global scale, how do you think different countries or regions compare in terms of embracing new trends in work?**

The complexity in the global market cannot be overestimated. Historically, the developed world trends influenced and shaped the developing markets trends; but now the tide has changed. As the world becomes more globalized, consumers have a greater appreciation for things that are local.

4. **Do you think robots are eventually going to take our jobs?**

Robots may change how work gets done, but I do not necessarily think that it will displace most jobs. Not so long ago, people predicted that computers would bring about a paperless society.

5. **What do you recommend for startups and small businesses (as opposed to large companies) to thrive in this rapidly changing environment?**

Look outside your industry. All too often, we focus internally on our own organization or industry. As categories co-mingle and collapse, competition will come from the most unlikely of sources.

6. **What is your take on a cashless society? Do you see this happening in the future?**

I, personally, look forward to a cashless society; but won’t jump into the pool until my concerns about privacy and data protection are secure. The irony in this area is that with every advance comes a new risk.
Do you see the rise of online lenders affecting the banking and factoring industry? If so, how?

Long ago, bankers were seen as pillars of the community. It was important to have a relationship with a bank or credit union. These relationships could make the difference between a loan approval or denial. Online lenders may not be able to offer the same personal touch, but they make up for this with speed and transparency.

Sheryl Connelly has been serving as the in-house Futurist for Ford Motor Company for almost a decade. In this role, she tracks global consumer trends to aide in the discussion of long-term planning and strategy across the entire company, including design, product development and corporate strategy. Prior to joining the trends team, Connelly spent eight years of her 18-year career with Ford in a variety of field positions in Marketing, Sales and Service roles. Before working for Ford, she practiced law.

In addition to a Juris Doctorate, she holds a bachelor’s degree in finance and a master’s in business administration. She teaches design research at the Center for Creative Studies in Detroit, Michigan. Connelly has been a guest lecturer at Massachusetts Institute for Technology, University of Michigan and Wharton School of Business and a featured speaker at TED Global. Her strategic viewpoints have been published in the Wall Street Journal, Reuters, Financial Times and BBC, and she has been profiled in Automotive News, Forbes and Edmunds. Fast Company magazine named her the 24th Most Creative Person in Business in 2013.
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Will Factoring Become Collateral Damage of New Regulation?

BY JEFF ROSE, COO, Enable Business Capital (formerly National Bankers Trust)

As Washington regulators and Members of Congress in Washington begin assessing possible regulation of online lending, merchant cash advance companies and the other new forms of lending coming into the marketplace, the factoring industry must be very aware of how the targeting of these industries can affect those of us in the world of factoring.

Many of us may be tempted to keep our head buried in the sand and think, “I am factoring, not lending, so I am safe.” If this is your approach, you are most likely living in a fantasy world. It is essential that the factoring industry be fully aware of our industry’s real exposure.

While the factoring industry does not currently have a natural predator, it is highly possible for factoring to suffer through its being collateral damage. It does not take a genius to imagine new regulation targeting other players but actually affecting us.

In 2015, the US Treasury Department took an initial step toward regulating the growing online lending marketplace by seeking public comment on it. The Treasury is seeking to obtain information on the segment of the financial services industry that lends to small businesses. While they are only seeking information at this stage, it is likely it won’t be the last step. As we all know, governments never make an effort to reduce their grasp; they are always looking to regulate and control more and more.

In addition, several key members of Congress recently sent letters to the Consumer Financial Protection Bureau (CFPB), urging it to begin collecting data from creditors of small business lending. The stated purpose is to facilitate enforcement of fair lending laws. Also, they contend that this will assist governmental entities and creditors in identifying business and community development needs and opportunities of women-owned, minority-owned, and small businesses.

Consider the impact on the factoring industry if small businesses are redefined as consumers. This would be an unimaginable burden on factoring. Forcing factors to comply with the Fair Credit Reporting Act (FCRA) would be just one of the consequences. Obviously, this would be a huge new regulatory and paperwork burden.

Based on word from Washington and our own visits to Capitol Hill, it is clear that damaging new regulations could be heading our way. It is vital to be prepared. We do not want to end up with the factoring industry as unintended collateral damage as congress and regulators are endeavoring to target others.

Founded in 2009, to provide a unified voice for the factoring industry, the AFA is dedicated to promoting and protecting the interests of the factoring community. The AFA board is made up of volunteers who devote time and their own funds to travel to Washington, DC on behalf of the factoring industry.

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October 27-28, 2016
Best Practices from Best Factors Advanced Training Course
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Financing The Marijuana Industry— A High Level Perspective

The material which makes it into this column comes from three main sources. First, are situations which I, or others in my firm, run across in our practices. Next, comes inspiration from friends, colleagues, and others in the commercial finance and legal worlds. Finally, ideas come from things that happen in my life. This article falls into the latter category.

Recently, my wife and I went to a Dead & Company concert. Dead & Company is basically a continuation of the Grateful Dead’s highly successful Fare Thee Well fiftieth anniversary tour from the summer of 2015. The band is comprised of three of the “core four” surviving members of the Grateful Dead, plus three other excellent musicians hired for the tour. There is a saying within the Grateful Dead community that there’s nothing like a Grateful Dead concert. One of the things unique to a Grateful Dead show is the amount of marijuana consumed by the fans. However, unlike my first show in 1978, the weed smuggled into this show at the Los Angeles Forum was likely purchased from legal sources. As I thought about this fact, I realized that the legal marijuana business is huge and is moving towards being completely legitimate. I then began to wonder about how one would finance the legal marijuana businesses. Then the band opened the show with “New Minglewood Blues” and we settled into the concert.

Although it is basically accepted into the mainstream, marijuana is technically illegal at the federal level as it is classified as a level I drug according to the Controlled Substance Act of 1970. That said, legalized marijuana laws have been enacted in 23 states, Washington, D.C., Puerto Rico, and several territories within the United States. The majority of the legalized marijuana
is for “medical” purposes; however, 4 of the 23 states have legalized marijuana for recreational use. The acceptance level is such that some of the candidates in the Republican Presidential debate, as well as President Obama, have admitted to partaking. The legal marijuana business was estimated to be $2.7 billion in 2014 by the Huffington Post and it is likely much larger than that figure now. When taking into account the businesses which serve the legal marijuana industry, which include folks like security guard companies, packagers, equipment manufacturers, supply companies, software providers, and things of the like, the size of the industry is probably much higher than the figure quoted above. The legal marijuana industry has benefitted from scientific research, and a whole business has developed which fuses botany and genetics to create strains of pot, where many variables can be controlled, including things which relate to the “buzz”. In fact, the industry has gotten to the point to where the Orthodox Union, which is the largest organization to certify food as Kosher, is now certifying certain edible marijuana products.

A big impediment to financing the marijuana business is the discrepancy between state and federal law. A big impediment to financing the marijuana business is the discrepancy between state and federal law. As mentioned, it’s presently the service providers and non-drug supplies to the industry which can be financed at this time until the banking problem changes. Because the industry is so new, the customers are used to paying cash, and the account debtors are businesses which, to a great extent, fly under the radar, a traditional factoring deal as we know it will not presently work. More likely, the deal will need to be structured as either a form of a modified ABL deal, a transaction similar to the merchant cash advance model, or a loan which relies significantly upon side collateral.

The side collateral option is probably the simplest solution. Because of the banking problem, the legitimate players in the industry have to put the cash somewhere. The easiest solution is to purchase real estate. Hence, it is likely that businesses that need financing, or their principals, will have unencumbered real estate. That’s a pretty easy loan structure. Another option is the variant of the traditional merchant cash advance model. More likely, the deal will need to be structured as either a form of a modified ABL deal, a transaction similar to the merchant cash advance model, or a loan which relies significantly upon side collateral. The merchant cash advance lenders have successfully developed the automatic bank debit system in order to get paid. Although the merchant cash advance lenders may, on their face, look like asset based loans because they take blanket liens, the business model is all about setting up regular automatic debits against deposit accounts in order to ensure repayment. The merchant cash advance automatic debit model
is a useful tool for other forms of lending and, in effect, causes the lender to have access to deposit accounts without having to enter into a control agreement. Because the marijuana business is new to being “legitimate”, the merchant cash advance model is a likely structure. Finally, depending on the deal, a traditional asset based deal tied to inventory of equipment (perhaps with the merchant cash automatic debit advance feature) will also work. When financing a marijuana or marijuana service business, it is important to identify what are the main items of collateral. In fact, the best lenders always work out the exit strategy before the deal closes. Obviously, accounts are the biggest and most viable form of collateral, even if the deal is not structured to collect the accounts because of the present banking inconsistency. You still have account debtors and the UCC allows for direct collection of accounts any time you have a security interest in accounts. However, it would be interesting to see a lender exercise the right to collect directly upon accounts when the account debtors are marijuana dispensaries who pay presently in cash. This would require a redirection notice and armored guard services to transport the funds. Inventory is a big and unique form of collateral. Because of the inconsistent set of state and federal laws, one whose inventory collateral is marijuana will have challenges in liquidating the inventory. However, once one has control over the inventory, the normal rules on public and private sales would apply and a legal UCC foreclosure sale can take place. Some of the service providers, especially those who develop growing techniques, both in the botany/genetics side or the traditional agricultural delivery system side will likely hold viable IP, possibly patents and likely trademarks. Intellectual property and trade secrets are considered general intangibles and, except for registered copyrights, are perfected by a security agreement which includes general intangibles and filing the UCC-1 in the right location in the right debtor name. Finally, equipment will likely also serve as a form of collateral. Side real estate collateral is probably the easiest to liquidate out of at this time. What happens when a marijuana business fails? This problem has recently been addressed by two recent cases in the U.S. Bankruptcy Court. In one case in Colorado, the debtor who ran a pot dispensary business was unable to stay in bankruptcy or reorganize because a bankruptcy plan must comply with all applicable laws. The bankruptcy judge, who recognized the discrepancies between Colorado state law and federal law, dismissed the case outright. This case was appealed and upheld by the Bankruptcy Panel. (See, In Re Arenas, 535 B.R. 845 (B.A.P. 10th Cir. 2015).) A judge in a different case in Michigan ruled that the debtor could only obtain bankruptcy relief if the debtor divests itself of the marijuana business while the case was in bankruptcy in order to obtain the discharge. (See, In Re Johnson, 532 B.R. (Bankr. W.D. Mich. 2015).) This problem will need to be addressed in Congress, or perhaps a bankruptcy judge will recognize that the federal law does not make sense. Bankruptcy courts are courts of equity and it would not be surprising for a judge to take a stance in favor of a debtor who runs a legal marijuana business. However, for the time being, bankruptcy relief may not be available for marijuana businesses.

The legal marijuana business is large, growing, and in its infancy. However, it is presently a market segment that is without access to legitimate capital. The legal marijuana business is large, growing, and in its infancy. However, it is presently a market segment that is without access to legitimate capital and there will be opportunities for those that want to be pioneers in this area. Each deal will have to be reviewed individually and then assessed as to the best structure. Unlike the Grateful Dead, this industry will probably not be a long and strange trip. Rather, it will likely be quick and nimble—almost like doing high tech deals in terms of speed and how things change rapidly. Eventually, as the federal inconsistency problems change for the better and businesses have access to banks, deals will be easier to do and the marketplace will eventually dictate the best deal structure. For those who were wondering about the Dead & Company concert—it was great. One of the members, John Mayer, did a terrific job of standing in and covering Jerry Garcia’s guitar and vocal duties. Rumors are circulating about additional shows and it was just leaked that Dead & Company will headline the 2016 Bonnaroo Music Festival this summer. So, stay tuned. There may be a follow up to this article which will include concert reviews and further legal updates.
Make Their Factoring Work Matter

While reading through some newsfeeds the other day, I came across a Gallup Poll that found over 70% of workers dislike and are disengaged from their jobs. The main reason behind the discontent includes poor management and bosses who ignore talent and do not cultivate growth.

In some ways this surprises me, and in other ways it does not. Let me explain. I have been fortunate enough to have a career where I’ve worked at just a handful of jobs over extended periods of time. My career started as an intern working in the accounting department of a small business, a chief financial officer of a publicly traded corporation, and presently, to being the president of my own invoice factoring company. During that period of time I’ve worked for some good people, some not so good, and many in between.

The biggest problem with many companies is that they promote the wrong people to manage within their companies. It’s not that the managers are not qualified in terms of knowledge; as a matter of fact, it’s usually the reason why they were promoted. For example, the best salesperson gets promoted to manager when they do not have a clue on how to manage a group of people. They are great subject matter experts but poor at motivating and cultivating growth within their groups. The funny part is that it’s not their fault. Many businesses do not have a formal management training program so new managers just wing it as they go. Usually managers come in one of three forms:

• The Dictator—They usually manage by fear and are usually the worst type of manager. Employees are seldom asked for their opinions and are generally treated as a means to an end to get the job done. Motivation is usually very low since each person feels as if they have no input other than doing their assigned tasks.

• The Working Manager—They usually are easier to work with than a Dictator but generally do just that—work. They are so busy with their day to day job that they never meet with their team other than to make sure they complete their tasks. I found that a large portion of managers fit in this category.

• The Delegator—just the opposite of the Working Manager. This person generally has figured out the system where they parse out their work and take all the credit for its completion.

Early in my career I was promoted as a manager for a very small department which consisted of three people that reported directly to me. The work was pretty standard and I was finding that my group pretty much had the system down to a science, allowing them to meet their monthly deadlines without even breaking a sweat. It was great to have such an efficient team but I felt they had the potential to go beyond their daily routines. More importantly, this would be a great opportunity to motivate my team and allow them to excel, going beyond their normal scope of work. Yep, that was the thinking of some young kid manager looking to change the world in a day. Unfortunately, my small team did not share my enthusiasm. Understandably, most people don’t get excited at the prospect of doing more work, especially if the sole purpose is to expand their horizons. Let’s face it; most people prefer having a routine that is familiar and comfortable.

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SO WHAT WOULD BE THE BEST WAY TO MOTIVATE MY FACTORING GROUP?

Obviously, the easy answer would be monetary rewards in the form of a bonus for each person that goes above some specific goal on a consistent basis. Contrary to popular demand, money is not the overall motivator of workers, no matter what level they have attained in a company. If you dislike your job, the majority of your life is spent in misery. Think about it; a typical full time employee spends close to fifty hours a week, if you include your morning prep time, commute, and lunch. That’s a lot of time being somewhere you don’t want to be if you hate your job. Bonuses and raises are essential and should be given when earned. However, I have learned from experience that the euphoria from a raise or bonus is usually short term and eventually levels off pretty quickly.

By having such a small group reporting to me it gave me a little more time to meet with each person to see what they wanted from their careers at the company. Although it was not my intention, I practically scared the heck out of them by requesting individual meetings about their work flow. In retrospect, I could have handled that differently and been a little less formal. After the meetings were completed, I was not surprised by my findings. Each person generally delivered their expected quota of work—nothing more, nothing less. When asked if they were fulfilled by their position, I received the standard response that it was a nice job and they really liked the people in the office. I took it one step further by asking what would really make them feel enthusiastic about coming to work every day. The responses surprised me. They wanted their work to matter. Not just the daily routine of recording, disbursing and preparing financial statements. For example, one staff accountant who had been with the company for over nine years never sat in on the audit meetings with the CPAs. He always prepared the items on pre-audit checklists but never knew what the final outcome was once the audit was completed. My meeting with the accounts payable clerk was just as informative. It turns out that she had a bachelor’s degree in accounting but took the first job she could find since her family was struggling financially. She too had been with the company for several years and never inquired about an opening for an accounting position.

Having this newly acquired information, I took action immediately. First, not only did I invite my staff accountant to the meeting, I let him arrange it and give me an agenda of what topics he thought we should cover that day. I also told him that he would be acting as the liaison between management and the audit team. I assured him that I would support him in every way so he didn’t feel like he was being thrown to the wolves. As I expected, he took the ball and ran with it. He was in control and felt empowered. He never said it, but you could see the expression on his face every time he met with me on a status report. As for my accounts payable person, I asked the manager of the financial planning group if his team would let her assist them with some month end analysis. They were open to it and she quickly picked up the system for month end budgeting. As a matter of fact, she did so well that she eventually transferred over to the budgeting and planning team permanently. I always feel that if you can heighten someone’s career even if it means losing them, you’ve done your job as a manager.

Trying to motivate and empower your team has its fair share of defeats along with the victories. Don’t settle, break the routines, and most importantly, make their work matter!
UCC MANAGEMENT GOT YOU DOWN?


First Corporate Solutions is that company.