SALES & MARKETING ISSUE

ALSO INSIDE:

New Products and Strategies as an Alternative to an MCA
Invest in Building a Sales Generating Machine
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Thank you to those who attended the 23rd IFA Annual Factoring Conference in Fort Worth, Texas, April 5th-8th.

With over 700 attendees, 70 speakers and 50 exhibiting companies, the 2017 Factoring Conference exceeded all expectations as the number one event of the year for the commercial finance industry! Along with two full days of educational content, attendees gathered at socials and networking events that provided access to some of the highest caliber of experts and peers in the industry. Thank you to our sponsors who helped make this year’s conference such a success. You can find a Factoring Conference recap on page 24. We look forward to seeing everyone next year at the 24th IFA Annual Factoring Conference at the Fontainebleau, in Miami Beach, Florida, May 9th-12th. Save those dates now!

The IFA still has more exciting events and developments that are upcoming this year. Our summer and fall training classes will provide you with not only some of our popular annual offerings, but some new and original courses and webinars as well. Descriptions of our upcoming classes can be found on page 25. New webinars and other offerings will be added throughout the year, so please also visit our website for our current list of events.

The IFA and the American Factoring Association (AFA) continue to monitor current legislation in order to protect our members from intended and unintended consequences in legislation. Continual meetings with members of Congress help build the support of the Factoring industry. At the IFA Factoring Conference in April, Congressman Blaine Luetkemeyer (R-MO) spoke about the current congressional viewpoint on the regulation and oversight of the finance and small business community. Having allies like the Congressman is important for the AFA in order to have a voice in Washington, DC. It is through your support that the AFA is able to do this. If you are not involved with the AFA, please consider doing so in order to protect your future. More information can be found on page 26.

I would like to thank our IFA Advisory Board Members that have completed their two-year term and welcome four new members to our Board. The 2017-2018 Board members are:

- Robyn Barrett—FSW Funding—Phoenix, AZ
- Eric Belk—Match Factors, Inc.—Florence, SC
- Melissa Donald—LDI Growth Partners, LLC—Walnut Creek, CA
- Harvey Friedman—Lenders Funding—Williamsburg, VA
- Cole Harmonson—Far West Capital—Austin, TX
- John La Lota—Sterling National Bank—Factoring & Trade Finance Division—New York, NY
- John Martin—General Electric Company—Atlanta, GA
- Fred Moss—Accord Financial—Montreal, QC, CANADA

The IFA’s Advisory Board assists the IFA in broadening the public understanding of the uses and benefits of Factoring as well as helping design training programs and fostering new ideas to benefit the IFA’s member organizations. We look forward to working together to serve the Factoring industry and continue to offer new and exciting benefits to our members and community.

We appreciate all of the support from our members, vendors and sponsors. It’s through your patronage and feedback that we are able to provide such a strong organization that benefits not only Factors, but the commercial finance industry as a whole. I look forward to seeing you at one of our upcoming events this year and our annual conference next May!
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 NEWS**

**Business Trends Revealed in 2017 Factoring Industry Survey**

Results are in from the 2017 International Factoring Association (“IFA”) Independent Business Profile and Performance Survey of the Factoring industry. The survey reveals trends and industry benchmarking data on Factors’ operations, client types, business development practices, human resource policies, as well as other key business statistics.

Nearly 200 Factors participated in the survey, from a wide range of company sizes. Surveys were conducted January 1st to March 3rd, 2017 by Industry Insights, Inc., an independent research and consulting firm headquartered in Ohio and data was analyzed over March and April. All participants will receive a complimentary full report (over 200 pages) as well as a personalized report comparing their company to other respondents. Non-respondents can purchase and download a copy from the IFA website.

**Interstate Capital Launches Mobile App**

Interstate Capital released the new Interstate Capital Mobile App, a valuable tool for clients that organizes information and expedites funding. Clients with either Apple iPhones or Android phones can easily scan documents in-app upon delivery and transmit images to Interstate for quick paperless funding. They can also request fuel advances quickly after delivery using geo-tracking technology. The free app stores documents for clients’ review by both date and document type and enables clients to submit paperwork 24/7.

**LSQ Looks to Expand Factoring, Financing to Furniture Segment**

LSQ Funding is expanding its business to encompass the furniture sector and has brought Roger Portaro, a 20-year commercial finance veteran on board as vice president, business development to head the effort.

Portaro said the company has identified a gap in the under $20 million segment and is looking to provide solutions, including longer purchase order/invoicing cycles, need to inventory financing and need to purchase order financing.

**Far West Capital is Named one of Austin Business Journal’s 2017 Best Places to Work for the Second Year in a Row**

Far West Capital has been selected as one of Austin Business Journal’s 2017 Best Places to Work for the second consecutive year. The ABJ’s Best Places to Work list ranks companies in four categories using criteria by an independent rating agency. Far West Capital will celebrate the top 75 companies at a June 23rd 60’s and 70’s themed lunch at the JW Marriot Austin, where the Austin Business Journal will honor the winners for their unique company perks and strong company culture that helps retain employees.

**White Oak Global Advisors Rebrands Capital Business Credit as White Oak Commercial Finance**

White Oak Global Advisors, LLC on behalf of its institutional clients (“White Oak”) expanded White Oak’s asset-based lending platform through the acquisition in December 2016 of Capital Business
Credit (“CBC”), one of the nation’s largest specialty finance lenders providing asset-based loans, factoring and trade finance products. The company renamed the company White Oak Commercial Finance. White Oak, together with White Oak Commercial Finance, has provided more than $7 billion to more than 500 companies. Robert Grbic, formerly of CBC, will serve as President and Chief Executive Officer of White Oak Commercial Finance. Andrew Tananbaum will serve as Executive Chairman. White Oak and its affiliates have offices in San Francisco, New York, Denver, Atlanta, Chicago, Los Angeles, Charlotte, Fort Lauderdale, Hong Kong and Shanghai.

**INDUSTRY TRANSACTIONS**

**Creative Flips, Inc. Closes Over $4M for a Portfolio of Convenience Stores and Gas Stations in the Midwest**

This transaction was a restructuring for a borrower. The borrower was able to refinance debt to a much lower cost of capital saving them substantial cash flow over the term of the credit facility. Expansion plans are in process with excess cash flow created by this opportunity for the borrower.

**Austin Financial Services Funds $2.5MM ABL Facility to a Regional Delivery Services Company**

Austin Financial Services, Inc. funded a $2,500,000 ABL credit facility comprised of an AR revolver and stretch piece. The Company, who operates as a delivery firm, is based in Los Angeles, CA and provides on demand, next day, or shuttle delivery services to customers Statewide.

**Utica Leaseco, LLC Funds $25 Million in Transactions for a Dozen Companies in 2017**

Utica Leaseco LLC, completed the funding of over $25 million in Capital Leases, Loans and Sale Leasebacks so far in 2017. In every case, Utica and its partners provided funding based solely on the collateral value of the fixed assets.

**MidCap Business Credit Closes $10MM Credit Facility for Forged Components**

MidCap Business Credit completed a $10 million Asset Based Credit Facility to Texas-based Forged Components, Inc.

**North Mill Capital Provides $1,000,000 Total Credit Facility to NLR, Inc. Located in East Windsor, Connecticut**

NLR, Inc. offers lamp recycling and universal waste recycling for ballasts, batteries, and electronic waste.
**PERSONNEL**

**Bibby Financial Services North America** Names National Head of Sales for Factoring and Transportation  
Daniel Rodrigue rejoined the company as National Head of Sales for Factoring and Transportation for the US market. Daniel previously served as BFS’s head of sales for the Southeast region until 2013. He brings nearly two decades of experience driving sales for various financial platforms. Most recently, he served as national sales director of TAB Bank where he was responsible for building their national sales team including a focus on transportation companies.

**ENGS Commercial Finance Co. Expands its Current Office Locations and Welcomes New Team Members to its Factoring Subsidiary**  
ENGS Commercial Finance Co. (ENGS) announced the expansion of two office locations as well as additional team members to the company’s Factoring subsidiary, ENGS Commercial Capital (ECC). Joining the company are Bronwyn Hobson, Vice President, Risk Management; Patrick Eakins, Vice President, Business Development Manager; Mike Costello, Transportation Sales Manager; and William Rodriguez, Inside Sales Business Development Officer. In addition to its Birmingham, AL headquarters, ECC added offices in Chicago, Illinois and Nashville, Tennessee.

**CANADA CHAPTER EVENTS**

- **August 8**  
  Summer Gathering—Golf  
  Angus Glen Golf Club

- **September 12**  
  Legal Cases: Factoring

- **October 10**  
  Know Your Client

- **November 14-15**  
  2 Day Seminar

- **December 12**  
  End of the Year Gathering

**Meetings Location:**  
Mississauga Living Arts Centre  
Scotia McLeod Room  
4141 Living Arts Drive  
Mississauga ON L5B 4B8

For more information, contact Oscar Rombolà at (905) 603-6284 or orombola@accutraccapital-itc.com.  

**NORTHEAST CHAPTER EVENTS**

- **October 17**  
  Shark Tank Workshop  
  For more information, contact Harvey Gross at (732) 672-8410 or hgross@comcast.net.

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New Products and Strategies as an Alternative to an MCA

The MCA/small business loan ("MCA") product was never intended to encroach upon factors’ turf, but did so as a byproduct of an abundance of entrepreneurs and institutional capital coming into a sector with no-to-low barriers to entry. The fact that there now exists a securitization market and significant investor demand to purchase in bulk indicates not only the industry progress that has been made, but also the access to capital available. This is compared to the reality that most factors live-and-die by their own bank line and have their own high fixed costs as part of ordinary course services provided to clients and general compliance.

BY CHARLIE PERER

MCAs simply ran out of merchants (pizza places, liquor stores, etc.) to lend to that fit the industry norm of the average $30k dollar daily debit loans to small merchants, and as a business strategy, came to the obvious conclusion that they are better off, not to mention safer, lending to companies with an existing lending relationship, as these companies are bigger, have more cash running through them and are presumably better credits. Better to lend $50k or even $100k to a bigger and safer company than $30k to a weaker one. This piggybacking of sorts puts factors at a disadvantage as MCAs are piggybacking off the factors’ overhead, not to mention blatantly violating factoring agreements.

Every product has its time and place and there are definitely times when an MCA is needed—timing, speed to funding and no other options, but this has to be measured and done appropriately. Until now, there have not been many options for factors whose clients need $250k+ in capital with structure meaning the amortization might not be straight line and would take into account the borrower’s capital needs. There are reasons that have precluded new alternatives, with the key ones being scale, cost of capital, and bad debt, among other things, that make it hard for a traditional credit fund to serve this market.

MCA firms need volume to account for lending small dollars that pay back ultra-rapidly and to account for their own cost of capital and bad debt. For the all the negative press the industry gets for rate, the simple fact is that most large MCA companies are either unprofitable (e.g. On Deck) or generate a negligible profit. Rate is a misnomer when it comes to the MCA product. Lending $10,000 to a small business and charging a 1.30x factor or $3,000 fee to do so over 12 implies a greater than 50% interest rate. Whatever the interest rate might be has rarely dissuaded a small business that needed money vs. the payment structure. Amortization is the key
product change that needs to be solved for in order to truly provide factors a product they will accept. Therein lies the weakness of the MCA industry.

Due solely to the need for high volume, a straight line amortization product collected via daily debit is the only effective way to manage an MCA business. Moreover, it is the only way that lenders to MCA providers can effectively track and monitor their respective underlying collateral. The loans are too small and the credits are too weak to risk making a long-term loan and the underwriting is too quick to be able to really evaluate a credit. The output of 24 funding is a true cookie-cutter product that can fund quickly, but can’t provide a product that will help factor’s clients.

Factors welcome subordinated capital and understand the need for amortization, but when the amortization does not take into account the underlying business cycle, then it creates a tenuous situation. MCA firms have essentially clubbed up to provide merchants with large sums of capital by stacking each other and the factor that is doing all the work. These same firms also use insalubrious methods to collect and circumvent factors such as a confession of judgement, which prime UCC-1s.

Factoring firms are under attack, as there are too many insalubrious firms that don’t care whether they violate a factoring agreement. New strategies are necessary to not only survive, but to protect unsophisticated clients from firms who have no, or limited, ability to restructure loans or know how to work with senior lenders. One strategy would be to partner with investment or debt funds to participate in a factoring facility on a last-out basis. In simplistic terms, this would be a junior participation, but with more patient amortization and also controlled by the factor. The factor would control and manage everything, but with the help of a junior participant, would not be able to provide up to 110% if not more of availability. For avoidance of doubt, the participant would simply be purchasing the over-advance or out of formula part of the advance and not be a lender to the underlying client. This structure enables factoring firms to quickly provide capital to their clients in a very controlled manner, as they would be controlling everything. The factor would collect and disburse funds to the participant and the participant would get a higher return, but accept the potential risk, which could include standstills or potential loss of some principal. This method is not reinventing the wheel per se, but factoring is still a fragmented industry when it comes to the lower middle market so many smaller factoring companies do not have relationships with firms who would look to provide more patient junior capital to help onboard and retain clients. Most importantly, factors are not left holding the bag by a client who does not realize that a broker is going to give them five $50k loans rather than one $250k loan when they seek additional capital.

The partnership aspect is essential for both the factor and subordinated capital provider as these firms need volume, too. It is hard to build a portfolio with one-off $250k loans, but it is very possible to build a symbiotic business with strong deal flow and market rate intercreditor agreements that protect factors and incentive them to send deal flow to firms who will play by the rules, write sub $500k checks and provide flexible amortization schedules.

By working in partnership with a factor and providing a payback schedule that is tailored to a business’s cash flow needs, subordinated capital providers can help factors reclaim lost market share and provide a valuable product needed by companies across America. The short-term daily debit MCA is not going away, but when you start getting into bigger capital needs, there are now real alternatives that are able to provide a customized payment and solve for the amortization inflexibility that faces the MCA industry.

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Charlie Perer is Head of Origination at Super G and a member of its Credit Committee. He is responsible for originating and structuring transactions across all loans products and corporate development initiatives. Prior to Super G, Charlie co-founded Intermix Capital Partners, LLC, an investment and advisory firm focused on providing capital to small-to-medium sized businesses. At Intermix, he spent significant time sourcing and executing transactions and building relationships within the branded consumer, specialty finance and business services industries. Prior to Intermix, he worked at Barker Capital, a media-focused merchant bank and senior debt fund that provides specialized investment banking services to underserved media companies. Charlie began his career at Oppenheimer & Co. (acquired by CIBC World Markets) where he was a member of the Media Investment Banking Group. He graduated from Tulane University with a Bachelor’s Degree in Management. Charlie can be reached by phone at 310-562-2020 and by email at Charlie@supergcapital.com.
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The Potential Impact of the Trump Administration on the Factoring and Asset Based Lending Industries—Part Two

This Article is being submitted to the publisher on the 118th day of President Trump’s new administration, and big stories are developing at warp speed.

We’ve seen a court declare the second travel ban to be unconstitutional, fallout from the Comey firing, accusations of improperly leaking classified information to the Russians, and the appointment of a special counsel to investigate alleged Russian influence in the 2016 presidential election and any ties to the Trump campaign. In fact, given the pace of the stories, one can gauge the submission deadline for this article by what’s not mentioned. However, as stated in Part One, this article is not intended to be a political statement or an economic prediction. Rather, the intent is to focus on what segments of the factoring and asset based lending industries will benefit if a majority of President Trump’s policies and agenda items are implemented. Assuming government business gets done, despite being bogged down by all the drama, the prediction is that the new administration intends to focus on increasing and improving the military, building up the infrastructure, increase domestic energy production, and increase manufacturing in the US. These potential policies will likely benefit the government contracting, construction, transportation, and temporary staffing segments of our industry. Below will be some quick big picture points to keep in mind when doing deals in these sectors.
One should always review the contract for the job you are financing in order to make sure that the contract does not prohibit an assignment, and one should review the contract to examine the Federal Government’s setoff rights. A setoff is a deduction based upon agreements or rights outside the agreement you are financing. You will want to make sure that the Federal Government does not have set off rights as you can get caught short on account of a deal you know nothing about. One must also ensure that the contracting officer for the project has the notice of assignment and everything is in place on the government’s side before you fund. The forms and procedures are very precise, so it’s important that you work with counsel who has experience in this technical area. A correlative to a Federal Government contract is that often the parties who do business with the Federal Government hire

The Federal Government is a goldmine of potential business, and, for some, is the perfect account debtor. It pays its bills and there isn’t a person in control of payments who may try to squeeze you after the fact. However, one cannot obtain the assignment of an invoice of the Federal Government by merely giving notice. You must comply with the Federal Assignment of Claims Act. In addition to providing the proper form of notice to the proper department, Federal Government contracts may be assigned only if the contract provides for the payment of at least $1,000, the contract does not prohibit assignment, and the assignment is made to a bank, trust company or other financing company. One should always review the contract for the job you are financing in order to make sure that the contract does not prohibit an assignment, and
subcontractors, and are incentivized to hire persons who fit certain criteria, such as companies owned by minorities or veterans. These downstream contractors do not require compliance with the Federal Assignment of Claims Act, but will give you a taste of financing US Government work.

An increase in infrastructure means more physical building, which provides for opportunities in construction factoring. If one is to venture into this risky and technical area of financing, you need to know the inner workings of the construction business. Most construction transactions are set up such that the contractor bills the account debtor according to certain milestones in the project—known as progress billing. When the job is complete and the inspections are final, then the bulk of the money gets paid. The factor must understand the project and know how much to fund at each critical stage, and reserve for things that can go wrong. It’s easy for the factor to get too deep into the project too early. Another thing to watch out for is if the factor client does more work or spends more than what is specified under the contract. The factor client will need to have a proper change order signed off by the account debtor, or else the extra work will not be paid.

Another thing to watch out for is if the factor client does more work or spends more than what is specified under the contract. The factor client will need to have a proper change order signed off by the account debtor, or else the extra work will not be paid.

A buildup in infrastructure and domestic manufacturing requires movement of goods, which can benefit transportation factors. The transportation world is a specialty in and of itself, and for that reason, there are break out seminars and specialty programs put on by the IFA. However, one big picture item is that when carriers do not get paid for their transportation services, things get bad and ugly real quick. In fact, there are very colorful transportation collection firms that cause havoc for the factors when the carriers do not get paid. One group is headed by a person with multiple criminal issues and another group is headed by a person much like the fictional Saul Goodman/Jimmy McGill character from Breaking Bad and Better Call Saul—a guy who does not use his real name, but instead picks a name that sounds better when acting as a collector. This character has a permanent injunction against him by a State Bar Organization for practicing law without a license—and the injunction is against both “Saul Goodman” and “Jimmy McGill”. The issue which causes the collection drama is the Interline Trust Doctrine, which is federal common law—not based in statute, and is good law in many, but not all jurisdictions. But, essentially, it creates a trust for the benefit of carriers and when they are not paid, the carriers have the right to collect directly from the shipper (the person who caused the goods to be moved) or the consignee (the person who received the goods). This doctrine would, on its face, seem to only apply to brokers and freight forwards who procure the transportation contracts and hire the carriers to haul the freight. However, this problem also applies to carrier companies. When there is an uptick in work, it’s common for a carrier to sub out the job to another carrier. So, you need to monitor the payables of anyone you are financing in the transportation space and make sure that the carriers are paid. Some people do this via a letter of direction from the factor client to the factor, which instructs the factor to pay the carrier. The rights under the Interline Trust Doctrine are waivable. The language needs to be correct, but the right waiver in a freight forwarder, broker, or sub-carrier agreement, can operate to prevent that unpaid carrier from successfully interfering with your
collection rights—but also be forewarned, the two colorful collection agencies described above—will be in for a fight.

The temporary staffing industry is also a likely beneficiary of policies pushed by the new administration. When companies take on additional projects, they often ramp up through temporary workers. On paper, the temporary staffing industry seems like a clean business, and for good operators, it is. Workers have to be timely paid. When temporary staffing deals go well, they are relatively easy to manage. However, and purely from my perspective by what’s on my desk and in my office, a bigger share of the traditional factor fraud seems to come from this industry. The answer may lie in the business structure. The barrier to entry in this business is low; you need a phone, computer, and contacts. However, competition is fierce, which means rates and margins are low. The temptation to commit the traditional factor fraud, which is collecting directly on factored accounts, submitting invoices for funding that are not real, submitting invoices that are higher than the true value, and pre-billing, comes about in cash crunches. Fortunately, this traditional factor fraud is down somewhat because many factor clients in cash crunches can easily remedy the problem by getting a merchant cash advance loan (causing different problems). However, for some reason, the merchant cash advance lenders are not as prominent in the temporary staffing space—so the factor clients tend to resort to fraud more than other industry segments. Since the fraud in this industry space is mostly old school— the basic fundamentals need to be employed. More verification is required and one must monitor chargebacks. It’s easy to get more money out of the factor by inflating the invoice amount and bleed the money from the factor. Thus, if you see regular short pays that appear to be chargebacks, you will need to dig deeper and review the underlying paperwork and audit the transaction to make sure you are not being had. In addition, since this is payroll funding, the account debtors will generally pay for the employees at designated times. If the payment is even a day late, this could mean that the account debtor paid the factor client directly, which happens frequently in this industry segment, because this is a relationship driven business, and the factor client has the relationship with the account debtor.

Success in any field, requires anticipation, which is the purpose of this article. If there is a significant investment in infrastructure, and incentives to manufacture products in the US, this could bode well for the industry—especially when the impetus is across the board and not confined to a particular sector. Again, without taking a political position, our industry benefits when there are more entrepreneurs in small and medium sized businesses. While it remains to be seen if President Trump’s policies will be implemented, at least we have a basic overview of some important sectors of the factoring industry. •

Steven N. Kurtz, Esq. has represented factors, banks, and asset based lenders on a continuous basis since 1987, and he is the Co-general Counsel to the IFA. A founding partner of Levinson Arshonsky & Kurtz, with offices in California and Oklahoma, he practices in the areas of commercial law, insolvency, workouts, loan documentation and trade finance, in both transactions and litigation matters. He can be reached by phone at 818-382-3434 or by email at skurtz@laklawyers.com.

Correction Statement

Shortly after part one of this article was published, it was brought to my attention that there were inaccuracies. The Interstate Commerce Commission was actually abolished and replaced by the Surface Transportation Board and Sen. Elizabeth Warren was incorrectly identified as the first director of the Consumer Financial Protection Bureau, which was actually Richard Cordray. Sen. Warren proposed and helped establish the agency.
Beware of Post-UCC-Filing Changes

The filing of a financing statement under UCC Article 9 is an essential part of the secured transactions process. However, the secured party’s responsibilities don’t end there. Certain post-filing events may require the secured party to file additional UCC records to protect its security interest. In some cases, the secured party must take the required filing actions within short statutory deadlines, or its security interest may become unperfected. This is especially the case when the collateral consists of accounts or other assets that turn over on a regular basis.

BY PAUL HODNEFIELD

This article identifies the events that create an affirmative duty for the secured party to take action, what filing actions are required for the secured party to maintain the perfection and priority of its security interest, and the strict statutory deadlines within which the secured party must act. It also offers best practice suggestions for tracking critical post-filing changes.

DEBTOR NAME CHANGE

Accurate debtor names are especially important in the UCC filing process because financing statements are indexed and retrieved by debtor name. If a financing statement fails to provide the correct name of the debtor, there is a significant risk that the record will not be disclosed by a search. In such cases, the incorrect debtor name will generally render the financing statement seriously misleading and ineffective.

Because the stakes are high, secured parties normally take great care to provide the correct debtor name on financing statements. However, what happens if the secured party filed correctly only to have the debtor later change its name?

Debtor names can and do change, often without any notice to the secured party. A registered organization, for example, can change its name by simply amending its public organic record. Likewise, a change to an individual’s driver’s license could cause a name change event. Other types of debtors may quietly change their name without any notice.

If a debtor name change occurs after the filing of a financing statement, a search under the new correct
debtor name may not locate records filed under the former debtor name. The result is a risk of hidden liens. That risk must be allocated between those who file and those who search UCC records.

Article 9 allocates the risk of debtor name changes based on whether the collateral existed at the time of the name change or was later acquired. Under UCC § 9-507(c), if the name of the debtor changes so that it no longer complies with the requirements of § 9-503(a) and renders the filed financing statement misleading, then the financing statement remains effective to perfect the security interest in collateral acquired by the debtor before, or within four months after, the financing statement becomes seriously misleading. This protects the secured party by placing a duty on interested parties to search under prior names of the debtor. However, the secured party must take action to protect the security interest in collateral acquired more than four months after the debtor name change.

To remain perfected in such after-acquired collateral following a debtor name change, § 9-507(c) (2) requires the secured party to file an amendment that renders the financing statement not seriously misleading within four months after the record became seriously misleading. To make the financing statement not seriously misleading, the secured party simply needs to file a UCC3 Amendment that adds the new name to the record.

If the secured party fails to file its amendment to the financing statement within the statutory four-month period following the name change, its security interest will become unperfected for collateral acquired after that time. It is also important for the secured party to understand that compliance with the strict statutory deadline is not excused by the debtor’s failure to provide timely notice of the name change. Consequently, secured parties need to be proactive and stay alert for debtor name changes.

**NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT**

A similar situation arises when a new party becomes bound by a security agreement entered into by the secured party’s original debtor. This might occur due to a merger, acquisition, or other event that, under applicable state law, binds the new party by the debtor’s original security agreement.

If the new debtor’s name is such that it renders a financing statement naming the original debtor seriously misleading, then the secured party will need to take action. Otherwise, the secured party’s security interest will become unperfected with
respect to collateral acquired more than four months after the new debtor became bound by the security agreement.

Under § 9-508(b)(1), if the difference between the name of the original debtor and that of the new debtor causes a filed financing statement to become seriously misleading, the rules are similar to those for a debtor name change. The financing statement remains effective to perfect the security interest in collateral acquired by the new debtor before and within four months after the new debtor becomes bound by the security agreement.

As with a debtor name change, the secured party must take action to remain perfected in collateral acquired more than four months after the new debtor becomes bound by the security agreement. Similarly, the secured party must act with the strict statutory deadline, regardless of whether it has been provided with notice by the debtor, or risk having its security interest become unperfected.

Under § 9-508(b)(2), the secured party must file an initial financing statement that provides the name of the new debtor before expiration of that four-month period (emphasis added). While it appears from this language that a UCC3 debtor name amendment would not be sufficient, Official Comment 5 to § 9-512 suggests that a UCC3 amendment to add the new debtor name would satisfy the “initial financing statement” requirement, at least when the original debtor and new debtor are located in the same jurisdiction.

In some cases, the new debtor may be located in a different jurisdiction than the original debtor. When this occurs, determining the secured party’s responsibilities and applicable deadlines becomes more complicated as the event may cause a change in the governing law.

**CHANGE IN GOVERNING LAW**

A change in the law governing perfection and priority occurs either when a debtor relocates in such a way that its location changes for purposes of § 9-307, or when a new debtor that becomes bound by the security agreement is located in a different state than the original debtor. Many events can change the governing law, including when a registered organization re-domesticates to a different jurisdiction.

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state, a non-registered organization moves its place of business or chief executive office across state lines, or when an individual moves his or her principal residence to a new state. Likewise, mergers, acquisitions, assumptions, and transfers of collateral could result in a change in the governing law. A change in the governing law requires prompt action by the secured party. Under § 9-316(a), the secured party must file a financing statement naming the correct debtor in the new jurisdiction within a potentially very short time following the event. If the secured party fails to file its new financing statement within the applicable statutory time frame, its security interest will become unperfected, even with respect to collateral acquired before the change. The statutory deadlines set forth in §§ 316(a) vary depending on the circumstances. The secured party has no more than four months to file a new financing statement after the debtor changes its location to another jurisdiction. The secured party may have up to a year to file its financing statement following transfer of collateral to a person that becomes a debtor and is located in another jurisdiction. Regardless, the secured party must act before the original financing statement filed in the old jurisdiction is scheduled to lapse, even if that results in a much shorter period of time than would otherwise apply.

**TRACKING POST-FILING CHANGES**

The greatest challenge for a secured party is identifying critical changes involving the debtor while there is still time to act before the statutory deadline. This is no easy task. A debtor ordinarily has a contractual duty to notify the secured party of relevant changes to its name, location or organization structure. As a practical matter, however, secured parties generally cannot rely on the debtor to provide timely information, if the debtor provides it at all. A secured party must take any necessary action before the applicable deadline following the change, regardless of whether the debtor provided notice. Failure to act in time will cause the security interest to become unperfected in after-acquired collateral or, following a change in the governing law, all of the collateral. The secured party has a lot to lose in these situations. Therefore, the secured party must take the initiative when it comes to tracking post-filing changes.

Not all changes can be easily tracked. Much will depend on the nature of the event and the type of debtor involved. For example, unless the secured party remains in regular communication with the debtor, it may not discover the relocation of an individual or non-registered organization across state lines.

On the other hand, registered organization changes are comparatively easy to track. A registered organization must file a public record to make changes to its name, business structure, or location. A secured party can use the public record information to identify these changes and still have time to file any necessary UCC records.

Fortunately, most commercial transactions involve LLCs, corporations, and other registered organization debtors. There are two ways to track registered organization changes through public records. One is to have someone manually search the state business records for each debtor every two to three months. However, this method requires significant costs in filing office access fees and personnel resources.

The other offers an affordable alternative to manual public record searches. Some third-party providers offer automated tracking systems. These tracking tools alert the secured party of any changes to a debtor’s public organic records. The secured party generally receives an alert of potentially critical changes within 30 days of the event, but often much sooner. The alert provides the secured party with plenty of time to investigate and, if necessary, file the UCC records required to keep the security interest fully perfected.

The decision of whether to manually track changes or use an automated system depends on the size of the portfolio involved and the secured party’s available resources. Regardless of which method a secured party chooses, both are effective for identifying important changes affecting registered organizations.

**CONCLUSION**

The stakes are high when certain post-filing events require the secured party to take action. Fortunately, the secured party can easily protect its perfection and priority by filing the appropriate UCC records before the applicable statutory deadline. However, the secured party cannot use lack of knowledge as an excuse for its failure to comply within the short time limits. Therefore, each secured party should ensure that it has an effective post-filing monitoring program in place to identify debtor and collateral changes while there is still time to act.

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Invest in Building a Sales Generating Machine

When a business writes a check, there are only two categories it can fall under: expense or investment. And while I readily admit that GAAP requires most sales and marketing dollars be “expensed”, I never let accountants (or lawyers for that matter) run my business. Sure, one must record sales training, advertising, promotion, etc. as debits on the Income Statement. But that doesn’t mean for a moment that I have to accept that once the expense is paid, all activity related to that expense has ended. In fact, I expect quite the opposite. If I’m going to allow money to be spent on some sales or marketing line item, we had better be able to benefit today, tomorrow and beyond. For that matter, even credit & operational spending should be viewed with the intent of identifying “investment opportunities” where they present themselves. The bottom line is, are you spending or are you building?

ARE YOU READY TO GET MARRIED?

Just like a love relationship, it all comes down to “Are you ready to make a Commitment”? In business, the answer to this question reveals itself when you sit down to prepare your yearly budget/projection. If you specifically set aside money every year for a particular sales or marketing activity, then, the odds are, you are investing in it. On the other hand, if you simply budget for a

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pool of money available for “things as they come up”, then you are spending. I have worked for several firms in my career and consulted for dozens of others. From what I’ve seen, the majority of Factors are spenders.

As a marketing example, let’s take print advertising. Most every populated area in the US has a local business publication. Each of these publications will dedicate at least one issue a year to problems facing the small business community. Many Factors have placed an ad in this well-targeted issue. That makes sense, yes? However, if you ask the ad salespeople at the publication, they will tell you that if you want any “real” results (as opposed to possibly getting that one lucky transaction) you need to place your ad in at least “x” number of consecutive issues. While this may at first sound like someone trying to “up-sell” you, the truth is that any Marketing 101 class will teach you the same thing, because that’s the reality. The ad salesperson is just trying to get you to make the least possible commitment that will yield a positive, measurable outcome. If you don’t get enough leads, you’ll most likely never advertise again. Just in case you missed it in this example, a “commitment” is necessary to get success out of a marketing activity.

Now let’s use a Sales example. The single biggest line item under Sales & Marketing for most Factors is Sales Salaries. Given that fact, it’s surprising to see that very few companies are willing to ‘commit’ additional monies to protect and nurture that investment. Not only have finance companies historically under-spent when it comes to ongoing training and other sales support, but whatever percent they were spending before the Great Recession, it has surely gone down since. But if you ask anyone, even an eighth grader, the question, “If you spend less on something, should you expect to get more or less out of it?”, the answer would be ‘less’. The other interesting pattern is the way in which the support funds are spent. The budget that remains is more commonly spent on one-time, hit-or-miss type of expenditures. Factors will “try” attending an industry specific trade show one year, a turnaround function the next year and something different the next. Again, unless they get lucky, the results should be obvious. Flitting around from one thing to another is a very poor substitute for committing to an organization where, over time, a true recognizable presence could be established.

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lenders, but either haphazardly or not at all by the traditional lending and factoring communities. With people AND business owners purchasing more and more online, it’s time for Factors to either get on board this train or watch sales opportunities pass right by them. Luckily, these tools CAN be used efficiently to generate new business for just about any sized budget. But in order to make the best use of this ‘investment’, Factors must prepare themselves in three areas. The first is education.

Whether you have $10MM to invest in a lead generation campaign or $10M, it is easy to waste your money if you don’t understand the medium. So before you choose to pursue a particular marketing channel, it’s best to get a basic understanding of all of the channels available in order to be able to compare the pros & cons across all of them. It’s not just about getting results. The real key is to get the biggest bang for your precious buck. And then there’s always the quantity/quality conundrum. Remember, having more leads is good. But having more ‘closable’ leads is all that really matters. This is where the second area of preparation comes in. One must have already done (or do so now) an honest assessment of where they fit in the overall Factoring marketplace and where they believe they can most effectively compete (local or national, generalist or industry specific, big deals or small deals, etc.). Marketing is all about sending the right message (what are your competitive advantages) to the right target market (those particular customers who most need what your strengths are). Otherwise, you’ll either send the wrong message or the right message will reach the wrong people. Neither is a recipe for success. The final area is to make sure you are prepared to… yes, here it is, the one you’ve been waiting for… MAKE A COMMITMENT. Each lead generating tactic requires a minimum amount of money and support in order to have any hope of being successful.

As an example, I did a direct mail campaign many years ago. We decided to do a little testing before rolling it out on a national scale. We chose to send out 3 different mailer designs to 3 different markets. We did this because during the education phase, our research revealed that the biggest key to a successful direct mail campaign was to get the recipient’s attention on the outside of the mail piece. So we wanted to find the best way to do this. While this took more time and more money than originally planned, we were committed to the project and wanted to give it the best possible chance for success. Next, during the honest assessment phase, we picked out what we believed to be our biggest strengths and ranked them from most to least critical (low rates
was NOT among our strengths). Also during this phase, we picked the SIC Codes corresponding to our favorite niches as well as the size companies that we seemed to attract most often, and came up with what we believed to be the optimum target market. Of the 3 mailer versions, the first used a full paragraph on the cover to explain every important point. The second used only a few keywords that were very big and bold, but consequently left out what we believed were a lot of important selling points. The third had a terribly corny picture of a man with his pockets turned out to show he was out of money.

The first tested poorly, with response rates well below the national average for business-to-business direct mail. But, we did manage to close a few deals. The second produced a response rate above the average with a closing rate in line with our company average. The third produced well above average responses, but at an abysmal closing rate (quantity over quality). So, by the time we rolled it out nationally, we were not only able to budget for the cost, but the expected results as well. We successfully used this sales generating machine for years and it represented around 25% of our new revenues each and every year.

CONCLUSION

If you have more sales than you can handle, then you just wasted your time reading this article. On the other hand, if you don’t, you need to educate yourself and your key sales team members on the various methods out there (old & new) that can generate increased revenues at economical costs. The International Factoring Association is committed to providing the best available resources to its Member firms. That is why it is hosting a Sales & Marketing Training Seminar on July 27th & 28th with industry experts from Factoring, Internet Marketing and Internet Financial Intermediaries. Equip your firm with the tools necessary to build a sales generating machine. •
Over 700 commercial finance professionals gathered in Fort Worth, Texas, in April for the 23rd Annual IFA Factoring Conference. Along with two full days of educational content and an exhibit hall filled with over 50 companies providing services and resources to the Factoring community, attendees also socialized at networking events that provided access to some of the highest caliber of experts in the industry. Positive feedback flourished, emphasizing the demand that everyone in the commercial finance industry should attend this annual event. As Eric Belk from Match Factors, Inc. stated, “The IFA Conference is a first-class event, and is the single most important meeting in the Factoring community. The educational sessions are relevant and abundant, however, the networking opportunities and relationships one develops are what makes the IFA Conference so special.”

With nearly 30 different educational sessions to choose from, including general session speakers, breakouts and roundtables, attendees walked away with insight into the latest trends of the industry, techniques to run their organizations more effectively and advice from industry peers’ experiences. Wayne Coker from Advantage Business Capital said, “Excellent agenda and schedule! One of the best conferences for topics and meetings.” Standing room only was the breakout session on the Fintech Disruption. Tension in the room was evident as a panel of experts discussed this hot topic in the commercial finance industry and how Factors are affected. The only problem attendees had was deciding which session to attend. “I wish I had the ability to attend two sessions at the same time. Too many good topics,” stated Howard Sutter from Life Funding Options.

Dr. Beck Weathers, survivor of the 1996 Mount Everest tragedy, spoke to the attendees about his miraculous story of survival that has inspired millions of people worldwide. He reflected on his harrowing
tale of survival, the lessons he learned, and his supreme appreciation for getting a second chance at life, encouraging others to cherish every moment. Janet Godard from Aerofund Financial said that his story brought tears to her eyes, and Marty Bartlett from Liquid Capital said that Beck Weathers was one of the best speakers the IFA ever had.

The Factoring Conference always offers an international track with breakout sessions as well. This year we had topics such as Factoring in Latin America, How to Factor Chinese Receivables, Canadian Legal Update and Dealing with Bankruptcies in Canada. The IFA chapters, which includes IFA Northeast and IFA Canada, also hosted networking events for their members and those looking to get involved in those regions.

The highest rated session at the conference was a half-day session on Understanding and Motivating the Millennial Generation with Dr. Gustavo Grodnitzky. Participants left with specific action plans outlining what steps are required, strategically and tactically, to implement their “magnet factors” as well as individual steps to maximize Gen Y performance. Matthew Panosian from Accord Financial stated, “Excellent topic and engaging, informed speaker. Very helpful.” Dr. Grodnitzky is a high demand public speaker and a consultant for Fortune 500 companies.

The educational sessions were phenomenal, but the networking events were probably the most beneficial moments of the conference. Not only is one of the best ways to learn about the industry through the experience of others, but expanding your networking circle allows you to gain resources for future business. The Bibby Welcome Reception, Lone Star Reception, Tax Guard Dessert Reception, breakfasts, lunches, offsite activities and the Closing Event at Billy Bob’s provided countless hours of endless opportunities. Greg Salomon from Primary Funding said, “Once again, the conference was great! Seeing old friends, making new ones and developing new partnerships has made it all worthwhile.”

If you missed the 2017 IFA Factoring Conference and would like to listen to all the speaking sessions, you can purchase the MP3 recordings in the IFA store. Save the date for the 24th Annual IFA Factoring Conference, which will be May 9th—12th, 2018, at the Fontainebleau in Miami Beach, Florida! The IFA is already setting the speaking lineup and organizing new and exciting opportunities to learn and grow your business and networking circle. Photos from this year’s conference are posted at www.factoringconference.com.

**UPCOMING EVENTS**

The remainder of 2017 has in store some new and exciting educational opportunities for the Factoring industry. Our ever-popular Law and Business of Factoring Training Class and our Account Executive/Loan Officer Training Class will be offered in June. These courses are geared towards those newer to the industry or attendees wanting to refresh their business practices and gain some new “nuggets” to help them grow their business. The Law class even comes with a full set of Bob Zadek Esq.’s legal documents to use within your own organization. A discount is given if you attend both of these classes together.

In July, we will be offering a new and improved version of our Sales & Marketing Class. This class is titled Generating Business in Today’s New World and will be led by four industry experts that will train sales leaders and associates on how to determine the best course of action using the new tools available in today’s market as well as leveraging a firm’s existing capabilities to their fullest. Topics include: establishing your piece of the pie, developing a marketing plan, using targeted SEO to own a niche, using an internet lead generation marketplace, forming strategic partnerships and utilizing Pay-Per-Click.

The IFA’s Annual Transportation Meeting is always a sold-out event. The purpose of the Transportation Meeting is to provide a roundtable forum with current industry topics for Transportation Factors. One of the best ways to help with your strategic planning is to spend time discussing current issues with peers in the industry. This is a unique opportunity to share ideas and learn from others. This meeting will also feature an exhibit hall with products and services for Transportation Factors. Guest speakers, discussion time and networking opportunities are what make this meeting so valuable. If you factor transportation receivables, you won’t want to miss this event!

In October, the IFA will be offering three additional training classes. Mike Ullman, Esq. and Jared Ullman, Esq, will be presenting an Advanced Factoring and Legal Forum. Attendees will have the opportunity to explore, learn and deal with complex business and legal issues that arise in lending and Factoring transactions. Some of the topics that will be covered are: intercreditor and subordination issues with the drafting considerations, business and legal considerations in connection with mergers and acquisitions, dealing with marketplace lenders, Factoring case studies and advanced Transportation Factoring issues.

We will also be bringing back the course titled How to Compete Against the World of Fintech, but this year it will be “Round 2”. Last year, the IFA offered this course and it was a sold-out crowd of almost 100 attendees! This year we will have new speakers, new updates and new ways to stay ahead of the

*Continued on page 32*
Succinctly put, I like to say that the American Factoring Association (AFA) is an “insurance policy” for the factoring industry. Through donations from factoring companies nationwide, the AFA has sent representatives to Washington to meet with lawmakers each year since 2009— not to solicit favors or assistance, but to simply educate Members of Congress and their staffs on what factoring does for the economy.

This outreach is absolutely needed in that we occupy such a niche (and quiet) role in the economy that it is important that the Congress doesn’t unknowingly pass legislation that would adversely affect our livelihood.

To date, the AFA has made significant progress towards its goal of educating key legislators and their staffs, thanks to the involvement of a committed group of factoring executives.

At the IFA’s annual Factoring Conference in Fort Worth, Texas, the AFA was able to bring Washington to the factoring industry, as Congressman Blaine Luetkemeyer (R-MO) accepted our invitation to address the gathering. The Congressman serves as the Chairman of the Financial Institutions Subcommittee of the House Committee on Financial Services. He is also the Vice Chairman on the House Committee on Small Business. The Congressman has a personal and family background in banking. He is also considered one of Washington’s most effective lawmakers; he has led efforts to modernize federal housing programs, reform the National Flood Insurance Program, provide regulatory relief to small/mid-sized financial institutions and repeal Operation Choke Point.

At an invitation-only breakfast with his supporters, the Congressman was able to share his thoughts on the current state of small business, financing and regulation as well as his thoughts on the future with a new Congress and White House. The “off the record” conversation with these factors allowed for a spirited and productive dialogue.

The Congressman then took the opportunity to share his thoughts with the larger conference, addressing many of the concerns of the industry in his prepared remarks and through a question and answer session. Thanks to the involvement of our AFA members, the voice of the factoring industry was heard louder and more personally than ever before, and we have cemented a relationship that we anticipate will endure for many years.

And that is how the AFA serves as a sort of “insurance policy” for the industry. Factoring companies do not make a whole lot of noise in the world of finance. We play an understated role in the American economy, but it is a crucial role nonetheless. Factoring companies provide thousands of quality jobs
for Americans across the nation and help tens of thousands of small businesses secure funding without which they would not survive. If small businesses are the proverbial “engine” of the US economy, then think of the factoring industry as a gas station—we fuel their growth, and Washington policy makers need to know it.

The AFA is here to educate and to advocate. Through our travels to Washington (and Washington’s travel to us), we are educating lawmakers and their staffs about the important role that we play in the national economy. Our effectiveness is evidenced in Representative Luetkemeyer’s willingness to come to our conference. In the years to come, we need to establish more relationships with additional policymakers. But, to do so, we need your help—if you do not do so already, I would urge you to donate resources and time to the AFA. It is, after all, an insurance policy that benefits the entire industry, and the more participants it has, the better coverage we will get. •

The goal of the AFA is to increase membership and financial support from every IFA member. We urge every IFA member to contribute to the AFA as we are in the midst of our annual membership fund drive. Currently, we have Bronze Members who have contributed as little as $500, up to Diamond Members who have contributed in excess of $10,000. This is a very inexpensive insurance policy to help protect our industry from needless regulation which will be both costly and prohibitive. Please consider supporting the American Factoring Association. •

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IFA Member Benefit: One free hour of initial phone consultation

FactorHelp

FactorHelp has come to be regarded as the factoring industry’s premier resource provider. Their manuals, in use on every continent of the world, are setting the industry standard, and their reputation as the one-call solution for factoring problems is growing. By consistently introducing innovative, viable products, vigilantly cultivating an extensive alliance of Strategic Partners and providing the professional expertise demanded of an industry leader, FactorHelp strives to maintain its goal of providing the unparalleled service the factoring industry expects from a solutions partner.

Phone: 972-722-3700 • www.factorhelp.com

IFA Members receive a discount of 10% on their consulting fees and 5% discount on all FactorHelp products in the IFA store.

CREDIT

Ansonia Credit Data

With more than 250 Factors and over $800 billion in data, Ansonia provides Factors and ABL lenders an innovative way of managing debtor and fraud risk. Our business credit reports feature current and historical days-to-pay information collected directly from the accounts receivable departments of small and large factors, and other companies across all segments.

Phone: 855-ANSONIA • 855-267-6642 x.103

www.ansoniacreditdata.com

IFA Member Benefits: Free VIGILANTE™ Portfolio Analysis. Try Ansonia’s unique new program for monitoring credit portfolio risk. Call today to receive a comprehensive review of your entire portfolio.

Credit2B

Trusted by all of the majors because of the sheer volume of Factor trade and 98% third-party data coverage of active businesses in North America, Credit2B is a cloud-based platform that empowers accurate and timely decisions by connecting the experiences of trade credit grantors around their common business customers. We combine this highly valuable trade network information of approximately $700B in recent receivables with live bureau and public filing information to provide comprehensive financial risk profiles, all in real time. Our dashboard also provides Factor specific scoring, Factor client risk pools, monitoring, peer benchmarks and comprehensive trade data pack solutions for integration into your enterprise software.

Phone: 212-714-4500

Website: www.credit2b.com

IFA Member Benefits: Join the largest virtual factor community. Receive 10% price discounts for being an IFA member. Complimentary invitations to our hosted events in NYC.

Dun and Bradstreet (D&B)

D&B is your source for the best business insight in the world. D&B’s global database contains the deepest, broadest, most rigorously quality-assured business insight available, covering more than 210 million businesses worldwide. With this insight, D&B has been enabling companies to Decide with Confidence™ for more than 170 years.

Phone: 973-605-6344 • Website: www.dnb.com

IFA Member Benefits: New & Returning customers: receive DISCOUNTS off D&B solutions. Discount is for IFA members that are not current D&B customers or have gone for a period of one year. Existing customers: receive discounts on other D&B solutions not under contract. (ie: Hoover’s, Supply, DNBI Modules)

FactorsNetwork

FactorsNetwork provide an online platform where Factors work together to increase their profitability and competitiveness. Members are able to pull Credit Reports free of charge as well as monitor and analyze their portfolio. Transportation Factors benefit from our CarrierMonitoring and ChameleonCatcher programs and their clients love our LoadBoard. You can even use the Sales Tool to help find new clients.

Phone: 435-659-4612 • www.factornetwork.com

IFA Member Benefits: 33% cost savings for the annual membership fee. It is normally $3 per day, but IFA members will pay $2 per day.

CREDIT CARD PROCESSING

Clarus Merchant Services

Clarus Merchant Services offers a custom program developed specifically for how the Factoring Industry processes their credit card transactions. Our program provides detailed reporting that allows tracking of each invoice and fee transaction for easy account reconciliation with their customers and clients. We work with each member to ensure all processing costs are covered and that they are doing so within the guidelines of MasterCard / Visa. In addition we provide IFA members direct access to their account manager for immediate response and support.
David Powers, Member Relationship Manger
Phone: 540-222-3925 • clarusdc.com
Email: dave.powers@clarusdc.com
IFA Member Benefits: Any IFA member that purchases the CardX program will receive a one-time $200 rebate once the member has processed a whole month using the program.

**ePaymentAmerica**

ePaymentAmerica is the nation’s leading provider of processing services for the factoring, A/R financing, and P/O financing industries. They offer IFA members exclusive USA, MasterCard, American Express and discover pricing, a discount on their virtual gateway, and a discount on PCI Compliance Certifications.

Phone: 901-385-5327 • epaymentamerica.com
Email: factoring.program@epaymentamerica.com
IFA Member Benefits: Interchange Plus Pricing* Bundled Monthly Service Fee of $30.00 (includes IRS regulatory compliance, account maintenance, PCI compliance, virtual gateway & online management tool.) Based on volume/transaction count.

**Disaster Recovery Services**

Agility Recovery

For the past 25 years, Agility Recovery has been a premier provider of onsite recovery solutions across the United States and Canada. When disaster hits, Agility will be on the scene, providing you with any, or all, of the critical elements you need to keep your business in business: power, space, technology, connectivity. Membership also includes access to a dedicated Continuity Planner and secure access to your myAgility planning portal to assist in building and maintaining your business continuity plan.

Phone: 866-364-9696 • agilityrecovery.com
Email: andre.selvyn@agilityrecovery.com
IFA Member Benefits: 5% discount to each respective client’s monthly ReadySuite membership fee.

**Marketing**

50 Words LLC

50 Words is a marketing outsource firm for companies that either do not have a marketing department or that need to add more power to their existing marketing team. They serve as your dedicated marketing department.

Phone: 610-631-5702 • 50wordsmarketing.com
IFA Member Benefits: IFA Members will receive five free hours of marketing services with the purchase of any marketing service. (Offer to new clients only)

**Recruitment Agency**

Commercial Finance Consultants

Established in 2002, CFC is the premier provider of human talent to the factoring industry. CFC’s goal is to provide their clients with the best available human capital and the most current industry information to assist in accomplishing their growth potential.

Phone: 469-402-4000 • www.searchcfc.com
Email: dar@searchcfc.com
IFA members will receive an additional 60 days added to the guarantee on all placements.

**Software**

FactorFox

FactorFox Cirrus is a cloud application for factors, their clients, brokers, lenders, and others who enter or access data. Entries can be made and reports accessed from any internet-connected computer, tablet, or smart phone. As a web-native program, there is no extra cost for setting up your account or to access your data; further, you receive three hours of free training online. FactorFox’s various versions make it suitable for nearly any size factor.

Phone: 866-432-2409 • www.factorfox.com

In addition to the one-month free trial for everyone, IFA Members receive an additional month to try the complete program.

ProfitStars®

ProfitStars® is an industry-leading provider of complete portfolio management systems for commercial finance, including FactorSoft®. Its innovative Commercial Lending Management System™ offers a common framework for factoring, asset-based lending, inventory finance, and lines of credit. ProfitStars’ dynamic Commercial Lending Center Suite™ includes Commercial Lending FinancialCenter™, BusinessCenter™, BusinessManager®, and LendingNetwork®.

Phone: 205-972-8900, option 3

www.profitstars.com/commerciallending

IFA members will receive 10% off new ProfitStars lending solutions product purchase. For IFA members who are currently ProfitStars customers: Free one day FactorSoft refresh training course, per year, at ProfitStars’ training facility in Birmingham, AL.

**Tax Compliance**

Tax Guard

Tax Guard fills a critical gap in a commercial lender’s credit risk management toolkit with efficient, real-time and actionable insight into the true, non-public IRS tax compliance status of their prospects and clients. Our due diligence reports, tax compliance monitoring and resolution solutions support commercial lenders throughout every stage of the funding life cycle.

Phone: 646-502-4478 • www.tax-guard.com
Email: Rich.Porterfield@tax-guard.com
IFA Members will receive a 20% discount on the same-day due diligence order.

**Transportation**

ExecuCar

This is a premier luxury sedan service that offers private transportation with experienced professional drivers. Whether you are heading to the airport, a business meeting or social event, ExecuCar will get you there safely, in style and comfort.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with ExecuCar at www.execucar.com. Use the following Discount Code: CLLMC

**SuperShuttle**

SuperShuttle is the nation’s leading shared-ride airport shuttle service, providing door-to-door ground transportation to more than 8 million passengers per year. Their friendly drivers, comfortable vans and reasonable rates take the hassle out of getting to and from 33 airports in over 50 US cities and surrounding communities.

IFA Member Benefits: Save 10% on your roundtrip transportation by booking online with SuperShuttle at www.supershuttle.com. Use the following Discount Code: CLLMC

**UCC Search**

First Corporate Solutions

First Corporate Solutions is a full service public records provider specializing in the research, retrieval and filing of public records nationwide and internationally. Their services include industry standards such as UCC, lien and litigation searching, UCC and corporate filing services, nationwide registered agent coverage and real property title searching, as well as unique solutions such as state and county account monitoring designed specifically for Factors.

Phone: 800-406-1577 • www.ficoso.com
Email: info@ficoso.com
IFA members will receive a 10% discount off of the retail rates of their signature state and county account monitoring product.

**IFA Calendar of Events**

June 19–20

The Law & Business of Factoring
Planet Hollywood, Las Vegas, NV

June 22–23

Account Executive/Loan Officer
Planet Hollywood, Las Vegas, NV

July 27–28

Generating Business in Today’s New World Training Class
Planet Hollywood, Las Vegas, NV

September 7–8

Transportation Factoring Meeting
The Seelbach Hilton, Louisville, KY

October 11–12

Operations Roundtable
Planet Hollywood, Las Vegas, NV

October 19–20

Advanced Factoring & Legal Forum
Planet Hollywood, Las Vegas, NV

October 26–27

How to Compete Against the World of Fintech Training Class
Planet Hollywood, Las Vegas, NV

Jan 24–26, 2018

2018 Presidents & Senior Executives Meeting
Mauna Kea Beach Hotel, Hawaii Island, HI
Find Your Why

Over a simple cup of coffee in a little french bakery with a good friend, I lament on the difficulties of die hard competition, an unsettled market, and the everyday challenges of running a business that can slow you down, killing your momentum and challenging your confidence.

BY RENÉE A. TYACK

She graciously listens and then changes the subject with a question: “Have you ever been to The Thousand Islands in the St. Lawrence River, between New York and Canada?”

“No,” I manage to say between sneak peeks at my phone, waiting for that incredibly important message I’m sure is about to come through...

“Well, it is a slice of heaven.” she continues. “If you can imagine a place surrounded by incredible natural beauty, accessible only by boat, and somehow frozen in time... this would be that place. Towering trees crown the Islands—they’re everywhere a seed could fall.” She describes even the sensational texture of the river rock and the quiet serenity of the Islands. She is in no hurry and chooses her words carefully, painting a picture of profound beauty and tranquility. She has my full attention.

She goes on to tell me of her family roots to the island, going back to the 1800s. She and her husband eventually bought their own quaint cottage where she spends her days enjoying the scenery and peaceful town. She closes her story with a question; “Do you know what I had sitting on my desk from the day I started my first job, right out of college? My own piece of river rock, straight from the St. Lawrence River.”
Your WHY is essential. It needs to be present in all you do, with a reminder front and center to guide your path.

And it all came into view. Moreover, it hit me like a rock. She was so elegantly reminding me of just how essential our “why” is, in both personal and professional endeavors. As the buyer or the seller, as the trainer or the trainee, as the employer or the employee, in all of these roles our WHY is essential. Furthermore, you can’t just have a WHY and set it aside. It needs to be present in all you do, as an individual, as a company, as a leader, with a reminder front and center to guide your path.

While the importance of purpose is as old as creative thought, the science behind our decision making process is relatively new. Scientists and scholars throughout the centuries and around the world contributed to the development of what is known today as neuroscience. Notable mentions include a Roman physician to the Gladiators (Galen) credited with introducing theories that a person’s temperament and bodily functions are controlled by the brain; an Islamic surgeon who authored a 35-volume encyclopedia of medical practices in 1000 AD (Abu al-Qasim al-Zahrawi); and of course, Rene Descartes, with his famous awareness of self with “I think, therefore I am.”

The Society for Neuroscience (SFN) was established in 1969, over 3600 years after the first mention of the brain in Egyptian medicine. The SFN today has over 38,000 members in more than 90 countries. The organization is dedicated to bringing together the best minds from around the world to enhance our understanding of the brain and nervous system, paving the way for new studies, new technologies, and new ideas. Flash forward to 1992, marking the first successful use of imaging technology to effectively map activity in the human brain. Neuroscience boomed.

Advancements in neuroscience gave way to a new understanding of how we evaluate options and make decisions. It was largely accepted that our cognitive brains drive our decision making with logic, reason, and calculated risk. Dr. Antonio Damasio, a neuroscientist at The University of Southern California, challenged this notion after coming into contact with a patient who had a tumor removed from his cortex, near the frontal lobe. This patient was intelligent, successful, and involved with his family and his church, but following the surgery, he was incapable of making even the smallest decision. Dr. Damasio went on to study more people with similar occurrences, all unable to process emotions and, as a result, incapable of making decisions. Dr. Damasio demonstrated that our limbic brain, the part of the brain responsible for memories and emotions, ultimately overrides logic, reason, and rationale. At the point of decision, emotions determine the outcome.

Scientific proof of the role of emotions in the decision making process has implications in everything we do in business. How we lead. How we tell our story. How we influence the marketplace. How we develop new business. How we incentivize our team. To attempt to influence a buying decision with logic and reason is not enough. To incentivize an employee with numbers alone may not be enough, depending on the employee’s WHY, of course. To withstand market disruption by focusing on rate transparency or pricing, will not produce sustainable results. In each of these cases, the WHY is the core element to success.

In the early 2000s, I worked for a small privately owned hotel management and development company in Chicago. The president was positioning the company for growth but first needed to improve the existing culture. He had his entire management staff read Gordon Bethune’s From Worst to First; we used it like a handbook. We established an 800# with a direct line, which he answered personally. We created a Team Member newsletter, uniting the team and celebrating their success stories. We also identified that if we could reduce employee turnover and the number of missed work days, we could significantly impact our bottom line. We implemented a reward program—for each quarter an employee had perfect attendance, their name was thrown into a drawing. At the end of the year, the winner of the drawing won a shiny new Ford Mustang for the whole year, all expenses paid. This was pretty exciting, until someone called the 800# and told our president that while the car was pretty, the employees needed rent money, not a fancy car. You guessed it, the next year the winner had their choice between a shiny new car or their housing expenses paid for the entire year. Employee attendance was nearly perfect. The president of this little company knew that, like Bethune, if he could harness the “why” in the lives of these team members, he could energize them to be at work, take pride in their contribution to the company, and build a culture of success. The “why” for much of his team was financial stability for their family. He
built a way for his team members to provide for their families and be proud of their contribution at work. Simon Sinek also references Gordon Bethune and Continental in his book *Start with Why: How Great Leaders Inspire Everyone to Take Action*. When Bethune took leadership of Continental in 1994, it was ranked last in every measurable performance category and had lost $600 million. By the end of 1996, Continental had made a profit of $556 million and received the JD Power Award for customer satisfaction. Sinek credits Bethune with gaining the trust of his employees in his people plan. “…Gordon Bethune knew how to lead the company. Those who lead are able to do so because those who follow trust that the decisions made at the top have the best interest of the group at heart. In turn, those who trust work hard because they feel like they are working for something bigger than themselves.”

In Simon Sinek’s TED Talk on how great leaders inspire action, he identifies a pattern among the world’s greatest leaders and most successful organizations in the way they communicate. He helps us understand that “people don’t buy what you do, they buy why you do it”. Sinek explains that the inspired leaders of the world approach their objectives in reverse, starting with WHY.

We all know and recognize the tight market conditions we face today. Charles Dickens may well have been describing our current lending landscape with the familiar opening lines to *A Tale of Two Cities*: “It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness…” In a world of crowdfunding, crowd-lending, merchant cash advances, and platform lenders, we are all in new territory. Competition is fierce. The market disruption is settling and opportunities can be seized. We need to be at our best and honing in on our “why” may just make all the difference, from motivating yourself or your team to creating your true identity, from which to grow.

I am so grateful for that coffee; my friend was so elegantly leading me to understand how essential our “why” is, throughout our lives. The “WHY” in our life defines us, motivates us, and shapes us. Furthermore, it’s not enough to just have a “why”—we are human after all. Make it tangible and get a reminder on your desk, or in your car, or hang it on your mirror—whatever it takes. Know your WHY; make it your true North, just as the river rock served for my friend, Pat Carpenter. •

### IFA UPDATE

Continued from page 25

game. The Fintech industry is rapidly evolving, so don’t be left behind!

Also in October, the IFA is offering a brand-new meeting for operations personnel. The Operations Roundtable will be geared towards those who have been working in operational positions for at least two years. Moderators and guest speakers will lead group discussions that pertain to these positions, allowing time to network and learn from others. The idea for this course was created from the reviews and suggestions from the IFA Annual Factoring Conference this year where we offered a similar roundtable session.

The new year will start off HOT with our ever-popular and always sold-out Presidents and Senior Executives Meeting. The January 2018 meeting will be on the Big Island of Hawaii at the beautiful Mauna Kea Beach Hotel. Presidents and Senior Executives of Factoring organizations have unique needs. This event is designed to facilitate that discussion specifically for upper level executives. This meeting is only open to IFA members and attendees must have a minimum of five years’ experience in Factoring.

We suggest registering early for these events, as the total number of attendees is limited. CPE, CLE and CFE credits are available. In between all of these classes and meetings, the IFA will be offering numerous online webinars. •

*Check the IFA website at www.factoring.org for a detailed listing of events.*
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<tr>
<th>Date</th>
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<tr>
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<td>6/22-23</td>
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<td>5/9-12</td>
<td>2018 Factoring Conference</td>
<td>Fontainebleau, Miami Beach, FL</td>
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The International Factoring Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website, www.learningmarket.org.
Of course, marketing and selling in the factoring industry are different from most industries. We cannot impulse a potential client into needing our services the way we might be able to with other products. They either have invoices, or they do not, we cannot convince them to use factoring if they do not have any receivables to factor. Small factors need to be especially wary of what resources they devote to developing prospects. Factoring is an excellent tool that gives companies access to far more capital than they could access through a conventional lender, so it is understandably intriguing. But it is incumbent upon us to be mindful that we do not spend our days talking to dreamers that aren’t candidates for factoring.

Before someone is considered a prospect, I always confirm the following:

1. Is the prospect ready to factor now?
2. Are they currently generating invoices?
3. Do they have the margins to justify the factoring fees?
4. Have they accepted our fees as fair and reasonable (if not, we risk losing them when someone comes along with better rates)?
5. Do they understand the agreement & the factoring process i.e. verification, NOA, advance rate, lockbox?
6. Do they know the advance is a function of the creditworthiness of their customers?
7. Do they understand that verification is the linchpin to getting funded (unless you are a non-notification or non-verification factor)?

Selling styles come and go; door to door sales, bulk mailing, telemarketing, infomercials, TV, radio, blast emails, social media, etc. We seem to flip flop between attempts at personal interactions (door to door, telemarketing, trade shows) to more efficient but less personal (bulk mail, blast emails, radio ads) in our never-ending effort to find the magic sauce. Understandably, we are all seeking to maximize efficiency; time is precious. It is the one commodity that we cannot get more of, and since we want to make the most of our time, we are attracted to anything that will give us a leg up or an edge. Blast emails, bulk mailings sound great, but do they work? And if, by some miracle, we hit the magic combination of words that gets us a good response, then what? We still need to vet them, but how and at what cost? How much time and money do we devote to determining if there are any real prospects in there?

At the end of the day, it is about creating relationships! Therefore, use technology as a tool to enhance relationships but not to create them! We all use technology, but we need to be careful not to use it as a substitute for human interaction. Ask yourself what it would take to...
convince you to deal with someone? What qualities would you look for in a person that you were going to trust with your company’s financial matters? A good salesperson will always educate the prospect, manage their expectations and address potential problems (such as an account debtor that refuses to verify) and how those problems would be handled. If we only discuss the upside, we are setting the relationship up for failure.

The good news is people want to be educated and feel like they are part of the decision, so use that to your advantage and get them involved in the process. Most of us are at least a little skeptical, if not downright leery, of people’s motives. Almost everyone has an agenda of some sort (it usually involves money), and we all know that, so why not put it right out on the table? Get the elephant out of the room! Let people know your real motivations. A line I use frequently is “I came to work today for the same reason you did, Mr. Jones...to make a living”. I go on to tell them “I will always put your interests first, not because I am a saint, but because it is good business. When I perform and provide you with a long-term solution to your current business challenges I expect that you will be a client for a long time and probably refer business to me”.

There will always be someone who comes along and claims to be able to do it better and cheaper, and it is important that your relationships are able to withstand that. If a prospect’s only concern is the discount rates (and you close them on that premise), they will continue to shop rates and eventually they will find someone cheaper. When they do, they will leave as soon as they get a chance......therefore basing the relationship solely on rates (or some other particular condition) will lead to a short relationship. Remember, the product can be acquired anywhere. Many of us still fall into the trap of overselling the product instead of selling the prospect on our own unique qualities. We achieve better results when we:

1st: Sell ourselves.
2nd: Sell our company.
3rd: Sell the product.

Our resources should be invested in meeting and educating potential candidates and selling ourselves. Accomplish this by attending trade shows, networking events, chamber of commerce meetings. A face to face discussion will always separate you from a competitor and give you a huge advantage in bringing a new client aboard.

**SOME RULES TO LIVE BY:**
- Don’t sell. Become an expert and educate your prospects.
- People want viable and practical solutions. Listen before you recommend a course of action.
- Don’t push the boundaries of your knowledge. Nothing will scare off a prospect faster than trying to discuss a topic that you clearly don’t understand.
- Make them feel like they are part of the decision. Give them choices and options whenever possible. I often say things like; “You have made some excellent points.”
- Explain your motivation. Do not let them try to figure it out. Big mistake!
- Let them know what you expect from them and what they can expect from you.
- Let them know that you are now a part of their financial solutions team.
- Don’t try to force square pegs into round holes (translation: factoring might not be the best solution for them).
UCC MANAGEMENT GOT YOU DOWN? WE CAN HELP PICK YOU UP


First Corporate Solutions is that company.