

# Brown & Joseph Newsletter

Volume 5  
October 2008

## 6 Ways Firms Can Solve Collection Problems

⇒ *Matthew Bandyk. "Small Business and Entrepreneurs."  
May 12, 2008.*

**M**any industries claim to be recession proof, but ripples from the broader economy are hard to dodge. Take the issue of your accounts receivable: The same amount of debt owed by your customers might seem manageable when the economy is perking along but become a problem when an economic slowdown is cutting into your customers' incomes and making it hard for them to cough up the cash.

If your cash flow is already slow, the failure to collect money owed can be a big issue. "Learning to collect those accounts receivable quickly and efficiently may be the difference between survival and failure," says Bill Bartmann, former CEO of one of the nation's biggest debt-collection companies. Yet a small-business owner who already has to be a jack-of-all-trades on the job may know little about collecting. Here are a few tips to get you started.

**1. Give out as little credit as possible.** The most effective way to avoid having problems collecting debt is not to have many accounts receivable to worry about in the first place. Any credit that a small-business owner extends carries risk, and that risk is heightened when the economy is sluggish. "You're going to get a lot more bad debts in a tanking economy," says Chris Kelleher, a Saint Louis attorney who advises small businesses. "If it's possible for you to not extend credit, or extend the minimum amount to make a sale, you're miles ahead.

But won't you risk losing customers if you're tight with credit? There are two ways around that. First, you can set up a system of deposits for customers who are wary of paying for your services in full. Write up a schedule of payments that can be made over time, or have the customer pay you as you accomplish certain milestones of the job. That way, if something goes



## Brown & Joseph's Headquarters Has Moved...

⇒ *by Allison Dinges*

**I**f you haven't heard the news already, Brown & Joseph's headquarters has moved...2 miles! Adding new employees, expanding divisions and increasing business has led us to one conclusion, we need more space. In true Brown & Joseph fashion, we couldn't find just any larger office space, we needed something with a little more...style. Thus, we have moved to the first floor in Tower 2 of the Continental Towers in Rolling Meadows, IL. Our new home, otherwise referred to as the "Taj Mahal" of offices, makes it the perfect place to invite all of our valued clients for a visit and observe our new operations. "I can only say, Brown & Joseph, Ltd. would not be in such a nice location, if not for its dedicated staff, who have serviced its client base for the last 13 years," says CEO Chris Cappuccilli. We hope to see you soon! Our new address is:

1701 Golf Road Tower 2 Suite 100  
Rolling Meadows, IL 60008



**BROWN & JOSEPH**

*Continued on page 3...*

## Word Search

Words are up, down, backward and diagonal.  
Answer key is on page 5.

Account	Family
Apple Pie	Frame
Autumn	Hardware
Cash	Interest
Client Services	Lawyer
Collect	Lead
Commercial	Legal
Consumer	Lien
Contingency	List
Controller	Overnight
Credit	Proof
Delay	Race Track
Demand	Reclamation
Driven	Retail
Excuses	Thanksgiving

C O N T I N G E N C Y B F T L E A D A D  
O E K A C H E X L D R H A R D W A R E E  
L M G Q J U J C S Z V A S B A F O I R L  
L A W Y E R G U T P C F E R Q M I V O A  
E K B I B T R S U X T O M T T J E E L Y  
C R E D I T I E I U J G N Z H D S N G U  
T O L W K R B S C S Y U C T K P R O O F  
A U N H A J I C S E O H A Q R I E G U R  
C I P S N D L T P C Q A P H P O C I Q A  
L N E H U E W I C I S O P Q R D L P N C  
I T S A X M V A Z V X E L N E M A L A E  
G E G U R A E K D R J L E F T F M M E T  
V R O T C N Y R M E E F P Y A I A V M R  
D E B U Y D E L I S T E I M I M T T O A  
Z S W M L N A S K T M R E P L Z I P L C  
G T A N P J L I E N X L V U T K O L V K  
N C D Y I B E X M E V N X E Y O N A Y F  
T H A N K S G I V I N G S A U C O W C O  
U F H S Q J A F T L C O M M E R C I A L  
D U Z W H E L D R C B O V E R N I G H T

## Will the Good Times Last? (From a Collection/Enforcement Perspective)

⇒ Robert S. Bernstein, Esquire. <http://www.agencies.bernsteinlaw.com/news/06.htm>

### I. Preparing for the Downturn

It is important that the company resist the temptation to cut corners on documentation. Documentation is most important when the deal goes bad.

Although it is always good to get detailed, accurate and extensive credit information before and during a transaction, it will be especially important to maintain or improve the information when the downturn comes.

Since perfection is necessary with leases intended as security, diligence in filing in proper locations is important. We should verify filings and get the customer to cooperate in correcting errors before there is a problem.

In short, do all of the right things, expecting it might go bad.

### II. What Do We Do When the Downturn Comes?

Although everyone (including you) may have confidence that the customer can work out of its problems, don't assume it will succeed. Be careful of letting the customer stretch further and further behind. Watch policies closely on default and enforcement timing.

Many lenders and lessors have regular visits to view the equipment or other collateral and verify its existence and condition. At first sign of trouble, make sure to check on collateral and determine what other creditors are doing with (to) the customer. If the avalanche is starting, make sure you are way ahead or out of the way.

When times get tough, there may be opportunities to restructure deals to allow recovery of more money, rather than more property. Look to other collateral to secure a revised payment schedule.

Even though most lessors and lenders and other creditors think of collection agencies and lawyers as the last resort, forward thinkers make sure they have solid relationships with agencies and lawyers in place so they can move quickly when there is a problem. ⇐



*"6 Ways Firms Can Solve Collection Problems" continued...*

awry, the costs you've sunk into the project are covered. Second, if the customer does not like that compromise, you should ask yourself if you really want that person as a customer. "Anyone who turns that down has waved a red flag saying he doesn't have any money," Bartmann says. "Wouldn't you rather let your competitor have that customer?"

**2. If you're going to lend money, think like a banker.** No bank would give out money without doing some homework on the borrower. Neither should any small business that is going to play the lending game. But this rule is often broken, says Michelle Dunn, author of *The Ultimate Credit and Collections Handbook*. When she ran her own collection agency, Dunn saw that most of her small-business clients "were very lax with their credit policies."

She recommends making all customers fill out a credit application and having them update it every year, because financial situations can change quickly, especially when the overall economy is in flux. Basic credit applications can be found at office-supply stores. For a customer who is going to owe you more, you should require more paperwork, just as a banker would. For advice on what information to require, Kelleher suggests, "Ask your bank what they do."

**"Ask  
your bank what  
they do"**

**3. Time is of the essence.** "You can go broke in a business that has a lot of accounts receivable with no cash," Kelleher notes. Have a system for following up on invoices. "Give a call the minute that account is due," Bartmann says. If you're low on cash and need payment without delay, a phone call can often get results faster than an e-mail or letter because it is harder to ignore, but you don't need to be aggressive. Make it a "friendly but firm" reminder, he recommends. If you have to make several phone calls, become increasingly firm.

What if the phone calls don't work? Showing up in person can shock a customer into action. "It's easy to throw away a letter or hang up the phone. It's harder to deal with owing money when the person is standing right there," Dunn says.

**4. Make sure you have the facts in front of you.** "Before you pick up the phone, have all the information about the customer's account in front of you and make sure you are familiar with it to avoid getting the run-around. The customer might claim that he or she has not received your product or service, or otherwise try to steer the conversation in another direction. "You need to have a comeback right away," Dunn says. If you are well informed, it's much easier to maintain control.

**5. Be willing to negotiate if need be.** If customers start breaking down on the phone about their dire financial situation, what can you do? "You have to be realistic and work with them to get payment. Otherwise, you're not getting anything," Dunn says. So don't demand the full amount immediately. Ask for a lower amount such as 50 percent now and the balance later. Ask questions about the customers' jobs and when they get paid. That way, you can suggest realistic ways for customers to pay you.

**6. If all else fails, don't try to be your own collector.** If calling, writing letters, and showing up in person haven't worked and it has been two months since the invoice was due, you're probably wasting your time. It's time to hand the case over to a collection agency or, if there's a lot of money at stake, an attorney. "There are incredible diminishing returns in doing your own debt collection," Kelleher says. "You should be out enhancing sales or getting new ones rather than calling people up and getting money from six months ago." ☞

## Brown & Joseph's Day at the Races

↳ by Allison Dinges

**B**rown & Joseph celebrated its 12th anniversary with the Annual Track Event, Sunday, August 17th, 2008 at the Arlington Park race track in Arlington Heights, Illinois. "Brown & Joseph knows how to throw a great event," says Yesim Brisbane from Siemens Healthcare Diagnostics, one of Brown & Joseph's many valued clients. "Everyone leaves feeling special," she adds.

Clients and employees joined together for horse races, food, drinks, raffles, t-shirts and of course, fun. The afternoon had 9 horse races, some bringing luck to our guests and others, not so much...

Brown & Joseph sponsored the 4th race. 🐾

## Preference Demands Call for Money Paid Prior to Bankruptcy

↳ by Steven Gelsosomo, VP Bankruptcy Services, Brown & Joseph, LTD. Published September 8, 2008 in the Turnaround Management Association's special insert in Crain's Chicago Business.

**M**any corporate professionals have never had the misfortune of experiencing a preference demand. Most companies have become accustomed to filing claims for invoices that remain unpaid due to a bankruptcy filing. The shock comes when the company receives a preference demand letter stating that pursuant to §547 of the U.S Bankruptcy Code, the debtor estate legally has the right to demand the return of monies previously paid by the debtor within the 90 days prior to the bankruptcy filing.

There are several defenses available to such a demand, including the new value/contemporaneous exchange and ordinary course defenses. These are typically the initial defense responses to the preference demand, as these defenses are usually easily attainable. There are other defenses available, such as contractual obligations, a security interest with the debtor, or the absence of antecedent debt.

Over our many years of both pursuit of preferences on behalf of debtor estates and the defense of preference actions, we have encountered numerous views with regard to the application of the preference laws. As the issues surrounding the defense of a preference can be complicated, the involvement of a bankruptcy professional has become a necessity. 🐾

## Types of Betting Wagers

↳ Arlington 2008 Daily Racing Guide. 2-3.

**WIN** - When you wager to Win, you collect the win payoff if your horse finishes first.

**PLACE** - When you wager to Place, you collect the place payoff if your horse finishes second or first.

**SHOW** - When you wager to Show, you collect the show payoff if your horse finished 3rd, 2nd or 1st. A show wager is the most conservative wager, and typically yields the smallest payoff.

**ACROSS the BOARD** - Across the Board is betting an equal win, place and show bet on your selection. You collect the show payoff if your selection runs third, the place and show payoff if your selection runs second, and all three payoffs if your selection wins.

**EXACTA** - The Exacta is a wager that your top two selections will finish first and second in exact order.

**EXACTA BOX** - An Exacta Box is a wager that two of the horses you name will finish first and second in any order.

**EXACTA WHEEL** - An Exacta Wheel is a wager that your "key" horse will win and one of your "wheel" horses will run second.

**TRIFECTA** - The Trifecta is a wager that you can select the first three horses to cross the finish line in exact order.

**TRIFECTA BOX** - A Trifecta Box is a wager that three of the horses you name will finish 1st, 2nd and 3rd in any order.

**TRIFECTA WHEEL** - The Trifecta Wheel involves "keying" one horse with several others. You win if your "key" horse finishes first and any two of the "wheel" horses finish second and third.

**SUPERFECTA** - The Superfecta is a wager that you can select the first four horses to cross the finish line in exact order.

**SUPERFECTA BOX** - A Superfecta Box is a bet that any four of the horses you name will finish first, second, third and fourth in any order.

**SUPERFECTA WHEEL** - The Superfecta Wheel involves "keying" one horse with several others. Collect if your "key" horse wins and any of your wheel horses are second, third and fourth in any order.

## Coffins the Newest Campaign Tool?

➤ *“Lighter side: Coffins the newest campaign tool?”*  
*The Marketing Report. August 18, 2008: 5.*

Marketing can be costly, so it’s nice when customers do the work for you.

Pabst Blue Ribbon Brewing Co. lucked out when one loyal drinker had his casket custom-made to look like a can of the company’s beer.

For now, it’s being used as a giant cooler during parties.

Think that’s strange? A former packaging designer for Pringles recently had his ashes buried inside one of the company’s signature chip containers.



### Did you know...

- The oldest existing governing body operates in Althing in Iceland. It was established in 930 AD.
- One hour before Alexander Graham Bell registered his patent for the telephone in 1876, Elisha Gray patented his design. After years of litigation, the patent went to Bell.
- There are more than 16,400 parking meters in Manhattan, New York.
- The first Ford cars had Dodge engines.
- Earth is slowing down - in a few million years, there won’t be a leap year.
- An ostrich can run up to 70 km/h (43mph).
- A giraffe can clean its ears with its 50 cm (20 in) tongue.
- Sharks are immune to all known diseases.

## Words of Wisdom

“What helps people helps business” - Leo Burnett

“A market is never saturated with a good product, but it is very quickly saturated with a bad one.” - Henry Ford

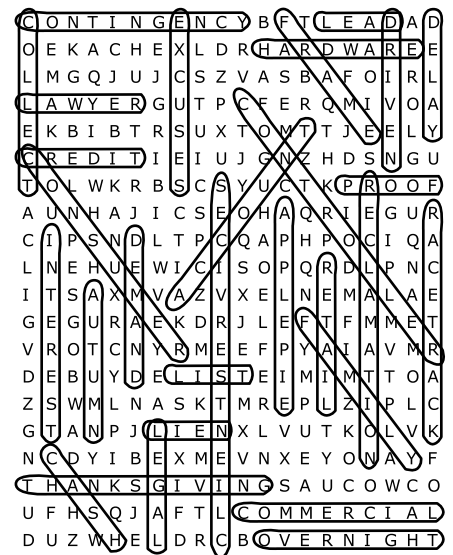
“You will never leave where you are, until you decide where you’d rather be.” - Dexter Yager

“Great ideas need landing gear as well as wings.”  
 C.D. Jackson

“It is not necessary to do extraordinary things to get extraordinary results.” - Warren Buffett

“A lot of companies have chosen to downsize. We chose a different path. Our belief was that if we kept putting great products in front of customers, they would continue to open their wallets.” - Steve Jobs

### Answer Key



### Published by Brown & Joseph

For letters to the editor e-mail  
 adinges@brownandjoseph.com



**BROWN & JOSEPH**