

Brown & Joseph Newsletter

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Views from our CEO, Chris Cappuccilli

↳ *Written by Chris Cappuccilli in response to questions asked by "Collections and Credit Risk" Magazine.*

The past 2 years for Brown & Joseph have been a blur. Our growth can be attributed to 2 major factors; our loyal clients, and, our dedicated staff. Brown & Joseph has managed and cultivated some of the brightest and hardest working employees. We've kept a strong team together that is consistently working and promoting growth. Opportunity knocked, and, the leaders in our company answered, setting the foundation for that growth. Without our long standing, loyal client base, we wouldn't be where we are today. We keep that in mind everyday and work to keep our clients happy, no matter what it takes. We are very proud of the long term relationships we've established with many clients.

What's Next?

It goes without saying that the face value of debt has grown, in part, due to the current state of the economy. The simple truth is that more companies are facing more problems recovering outstanding debt and there is no way around it, and no simple quick fix. We will continue to grow in the second half of 2009. There are a few contributing reasons for this growth relative to the face value of debt. One reason is that we've have been extremely successful collecting in certain industries and we've continued building a client base with a focus in those industries. Another factor is referrals. We will continue to spend on marketing, and, we will continue to provide our clients with quality service. As for the industry in the second half of 2009, much less the economy, all that can be said is that while we're all hopeful for a rapid turnaround, we're not in the clear yet. We expect to see substantial new business from more troubled companies. ↵

Rising U.S. Business Bankruptcies Seen Causing Pain For Banks

↳ *By Matthias Rieker, Dow Jones Newswires; matthias.rieker@dowjones.com.*

Danger is lurking for banks despite an economy that is inching towards improvement as U.S. business bankruptcies are expected to rise sharply well into next year. Banks have so far suffered mostly from souring real-estate loans rather than from loans tied to large and mid-sized businesses. But Dan North, chief economist of Euler Hermes ACI, said he expects Chapter 7 bankruptcies to "ramp up."

"In a recession, even a business with a good management team can be wiped out because there is nothing to be put back together" through a restructuring under the Chapter 11 bankruptcy code, he said. That will drive up loan losses.

Credit insurer Euler Hermes predicts that U.S. bankruptcies will rise 45% this year from last, to 63,000 in an economy that the insurer is expecting to contract 3%. That jump is caused partly by banks tightening their underwriting standards, North said.

Credit rating agency DBRS Inc. said in a recent report, "Many U.S. companies are strapped for cash as consumer spending and business investment contracted resulting in a steep decline in revenue during the latter part of 2008 and into 2009. Combined with an inability to replace or renew bank lending facilities, many businesses are defaulting on their debt obligations."

Continued on next page...



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*“Rising U.S. Business Bankruptcies”
continued...*

That also means bankruptcies will continue to rise even when the recession is over, Euler Hermes’ North said. Bankruptcies will taper off slightly next year but they will remain 40% above the already elevated levels of 2008, his firm predicts.

Banks will face political pressure, and perhaps from investors demanding to see returns from banks’ high capital as the economy recovers next year, to lend more. But North said that those pressures will likely prove only an incremental positive to bankruptcy trends.

Bankers “want to get back to the business of making money” from lending, but only “at a manageable level or risk.” Next year, bankers “will still be very aware of how severe the crisis was,” North said.

The vast majority of bankruptcies were, and are expected to remain, personal bankruptcies. Still, while business bankruptcies last year were tied mainly to financial-services companies - 25 banks failed - and construction loans, some major industrial groups, such as paper, metal, and chemical, are now also struck by the recession.

How badly that will hurt the banking sector, particularly large regional banks and the nation’s biggest banks that hold most of the commercial and industrial loans, is hard to gauge, because big businesses finance themselves through bonds and equity in addition to bank loans.

Still, losses in banks’ commercial loan book have been ramping up - first slowly last year, and more pronounced in the first quarter, when commercial and industrial loan losses made up 1.8% of loans, according to data from the Federal Deposit Insurance Corp. Overall, first-quarter loan losses were almost twice as high as a year earlier, the FDIC said. And, “The year-over-year rise in charge-offs was led by loans to commercial and industrial borrowers, where charge-offs increased by \$ 4.2 billion.”

DBRS wrote that business bankruptcies surpassed the peak levels of the previous cycle last year, and

Word Search	S P A S U J N K S E I T F U I P
<i>Words are up, down, backward and diagonal. Answer key is on page 4.</i>	O B I N D E P E N D E N C E O E
Assets	D H Q A O S I N T Q Y Z M B F R
Attorney	U R G S V W A I V E R R J R E S
Barbeque	E U H S O J D O K Y E N E O C O
Broken Promise	D L D E S I S T F I V E R K W N
Cash On Delivery	I I C N G O O D F A I T H E K A
Cease	L J T I P M D E P X L C B N P L
Consignment	I A S S E T S Q R P E A I P B G
Desist	G G L U T H Y I O A D G B R A U
Due Diligence	E A W B S I W Z S X N O N O R A
Foreclosure	N K H F O E I E P U O R U M B R
Good Faith	C U Y O D L O Y E C H C G I E A
Independence	E L A T E F E E C S S B R S Q N
Late Fee	U Z F U V V T N T E A N E E U T
Net Terms	A T T O R N E Y A P C A Q B E Y
Out of Business	G F M U E N E T T E R M S X C A
Personal Guaranty	Y N S M L F O R E C L O S U R E
Prospect	J A H Y U D E K H P W W B O M X
Research	T C O N S I G N M E N T Q A L D
Survey	
Waiver	

“there is little to suggest that business bankruptcies have reached their peak.”

Stifel, Nicolaus & Co. analysts said in a research report that the rising business delinquencies trend “raises the question, is commercial the next subprime?”

Commercial and industrial, or C&I, loans totaled \$1.4 trillion on March 31, almost 20% of total loans and leases among the 8,200 FDIC insured banks. According to the Federal Reserve’s stress test for the 19 largest banks, C&I loan losses could total up to 4% over two years under its “baseline” economic scenario, and twice as much until its “more adverse” scenario.

Bank of America Corp. (BAC) is the nation’s largest C&I lender, with a total of \$241 billion in such loans on March 31. The loss ratio of Bank of America’s C&I portfolio remained low at 0.46%, compared to 13.5% for small-business loans.

Wells Fargo & Co. (WFC), Citigroup Inc. (C) and JPMorgan Chase & Co. (JPM) follow Bank of America as the biggest commercial lenders; Comerica Inc. (CMA), M&T Bank Corp. (MTB), and Zions Bancorp (ZION) are among the large regional commercial lenders, according to SNL. ☞

How to Improve Your Chances of Receiving Payment From a Risky Customer

✍️ *Nicholas D. Krawec, Esq. Bernstein Law Firm.*

While granting credit to customers is a necessity for doing business, it is always a risk. You, as a business owner, must look for ways to minimize that risk and improve the likelihood of receiving payment from customers. The methods detailed here are the most common ones on the road to payment.

Ways to improve your chances of receiving payment:

- Credit and sales components must work cooperatively. Credit managers are, and must be, the sticklers for making an evaluation of the customer's background and creditworthiness. Sales people, while they fear offending the customer and possibly losing the sale, must reconcile themselves to the necessity of credit checks.

- Reach into as many of the debtor's pockets as possible by:

1. Getting the written personal guaranties of payment of principals of the debtor company including partners, shareholders and spouses. Agreement of the principals' spouses is particularly important since Pennsylvania law adopts the concept of "tenancy by the entirety," where creditors of only one spouse cannot ordinarily attach jointly held marital property to settle the one spouse's debts.

2. Retaining a security interest in the various assets of the debtor company. Enter into a security agreement with the debtor which gives you security interest in not only the goods you sell the debtor, but also in inventory, equipment, furniture, fixtures, accounts receivable, etc. Because secured creditors generally receive payment before unsecured creditors, your security interest in the personal property of the debtor enhances your position if the debtor files bankruptcy. Before negotiating and signing a security agreement, consult with an attorney; this procedure can be fraught with pitfalls.

3. Including with the credit application, or as part of the sales agreement, a confession of judgment clause. By agreeing to the clause, the debtor agrees beforehand that if he defaults, a judgment may be entered against

him without trial. As a creditor, you could then file a complaint in confession of judgment in any court of record and issue an execution against the debtor's business assets.

A confession of judgment, a lien against real estate owned by the debtor in the country where it is recorded, appears on any credit report or property search and acts as a lien against real estate until it is stricken by the court or satisfied. Such a lien could hinder the debtor's efforts to obtain future credit, and that possibility may, in itself, force the debtor to remit payment.

Security, whether a security agreement or a confession of judgment, should be obtained at the outset of your dealings with the debtor - when his business is going well, and he is optimistic. After he owes you, and probably other creditors, he will feel too vulnerable to sign anything.

And if that doesn't work?

If you have taken these precautions and the debtor still doesn't pay, turn to the legal process. If you have a confession of judgment executed by the debtor, contact your attorney, have the judgment entered and issue an execution against the debtor's business assets and business property.

If you do not have any of the above-listed protection but you do have a debtor in default, you must file suit to obtain a money judgment, in which case, it becomes a race to the courthouse with other creditors. There is also the possibility of collecting nothing because you did not have the proper credit security.

If you think the debtor may have improperly dealt with business assets or transferred assets to friends or family for little or no compensation, check with the debtor's other creditors. It may be worthwhile to file an involuntary bankruptcy against the debtor if he has also defaulted with other creditors. This approach gives you the resources and power of a bankruptcy trustee to find out what happened to the assets, and perhaps to undo (i.e., set aside) the improper transactions. Again, it is best to consult experienced bankruptcy counsel if you find yourself in the situations described here.

Remember, you can minimize your risks when granting credit to a customer, by keeping a watchful eye on the debtor and his business operations.

Whatever the debtor can do to forestall his "day of reckoning" puts money in his pocket - your money. Whatever you can do to obtain security and leverage to accelerate the debtor's "day of reckoning" puts money in your pocket. ☞

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Twitter for Marketing, Not for Repairs

↳ “The Marketing Report.” May 18, 2009:5.

Twitter’s 140-character posts may be enough for a marketing message, but not for car repair instructions.

After all of her car windows got stuck rolled down in a rain storm, a woman tweeted “How to fix stuck windows on a Saturn?”

A few responses she got (and these are all direct quotes):

- duck tape, garbage bag, done.
- turn the car upside down and shake it.
- pee on the battery.
- looks like you’re screwed. 🙄

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Did you know...

- ↳ Winds that blow toward the equator curve west.
- ↳ The Dead Sea is 365 m (1,200 ft) below sea level.
- ↳ In Denmark there are twice as many pigs as people.
- ↳ The paperclip was invented by Norwegian Johann Vaaler.
- ↳ Leonardo da Vinci never built the inventions he designed.
- ↳ The first train reached a top speed of only 8 km/h (5 mph).
- ↳ The first electronic mail, or “email,” was sent in 1972 by Ray Tomlinson. It was also his idea to use the @ sign to separate the name of the user from the name of the computer.
- ↳ Traffic jams are nothing new. In 45 BC, Rome banned all vehicles from within the city - and in other cities vehicles, including horses, were allowed only at night...because of traffic jams.

Words of Wisdom

“Words are like bullets; if they escape, you can’t catch them again.” - African Proverb

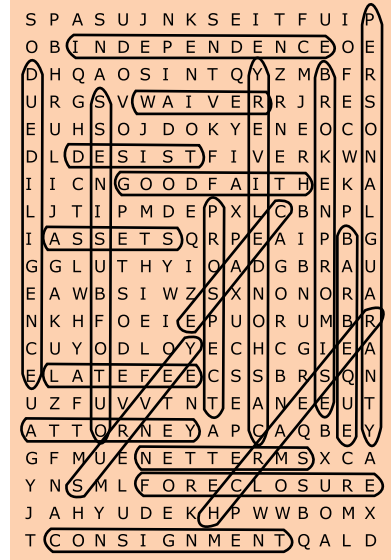
“Gray skies are just clouds passing over.” - Frank Gifford

“There are no shortcuts to any place worth going.” - Beverly Sills

“Nobody’s a natural. You work hard to get good and then work to get better. It’s hard to stay on top.” - Paul Coffey

“We are what we repeatedly do. Excellence, then, is not an act, but a habit.” - Aristotle

Answer Key



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