

Life After Debt

“A sale is not a sale until the debt is paid.”

This cliché couldn't be closer to the truth especially in the credit industry. This was the main takeaway in NACM's recent *Life After Debt* webinar presented by D'Ann Johnson, CCE, credit manager with Roofers Supply Inc., in Utah. The webinar focused on a credit manager's life before, during and after the “sale,” or when their customer becomes indebted to them.

Filling out a credit application is usually the first step after most sale inquiries begin. “The best defense is having a great credit application,” said Johnson referring to potential legal action down the line.

This initial form is a great way to gather as much information as possible about the potential customer and sale. It must require a signature by the appropriate parties and include a clause for legal action, should the contract go that far. “I'm surprised how many credit applications don't have a legal and collection fees clause,” noted Johnson. This insert allows the creditor to select the venue and the state laws that will govern any legal actions.

Another item to consider for credit applications is protection against purchase order override, which does exactly what it says, makes the credit application the law of the land and doesn't get creditors involved in a battle of the forms. It is important to remember a credit application is a legal, binding contract, so “do not allow terms and conditions to be changed without discussion or negotiation,” cautioned Johnson.

Don't have a credit application? All is not lost.

Boilerplate language on an invoice can also cover terms and conditions for creditors. The invoice should also be signed, and Johnson said, it is important to have the signer print their name clearly. The sale of goods under the Uniform Commercial Code (UCC) is also a protection mechanism for creditors waiting for payment after the sale. Under Article 2 of the UCC, “an action for breach of any contract for sale must be commenced within four years after the right of action has accrued ...”

Johnson also discussed verbal contracts and implied contracts, the former also with a four-year statute of limitations (varies by state). Implied contracts would need to show a history of customers purchasing and paying in the normal course of business. Unfortunately, with the good comes the bad, which is what this webinar zeroed in on—making sure the credit department and company get paid after the sale.

As a creditor, it is important to know why you haven't been paid. Among the reasons given are: not receiving the invoice or product, receiving the wrong product or having a pricing error. Customers are reluctant to bring the reasons to the credit department's attention, so they just don't send payment. It is up to the creditor to make first contact with the nonpaying customer.

The first step is to establish a line of communication and try not to play phone or email tag. Emails and text messages will show a better history (time stamp), so it's vital to keep a log of all phone calls. Also, make sure emails and texts are saved and not auto deleted or trashed. The reason to build communication is to find out why the customer is not paying. If it's not a simple oversight or a quick fix, further steps can be taken to help move payment from the customer to the credit department.

Five- and 10-day demand letters are another effective tool for creditors waiting for payment. Make sure the letter can be tracked using certified mail or another carrier service. Johnson said she'll typically send a demand letter after 60 days. Other options to spark payment are the intent to pursue small claims if the balance of the account isn't paid by a specified date or using 1099Cs to report the unpaid debt as customer income.

You never know what will be the hot button to get the customer to pay the debt, so working any angle may be to your benefit. Sending a demand letter, while simple, can be enough to scare the customer into payment and avoid the courtroom. Using statutory requirements such as lien and bond claims in the construction industry are another way to become secured; however, "all collection activities start with a great credit application," said Johnson.

-Michael Miller, managing editor