



# Credit and Financial Development Division NEWSLETTER

The Official Publication of the NACM Credit and Financial Development Division

February 2010

## Letter from...

**Mike Meyer, CCE**  
**CFDD National Chairman**



Who ordered this weather? Who would have thought that 49 of the 50 states would receive snow this winter? I hope the snow and cold have not caused any major problems for you or your families. Stay in good spirits because spring is right around the corner!

There are a number of items for the membership to consider over the next couple of months:

- CFDD National Scholarship applications are due March 15th.
- CFDD National Award applications are due March 15th.
- For anyone considering volunteering and serving on the CFDD National Board of Directors, applications are due April 1st.

- March 31st Quarterly Membership Reports are due on or before April 10th.
- For Chapter Presidents, Annual Reports are due April 15th.

All of these forms can be found on [CFDD.org](http://CFDD.org). Login and browse the website. All the information you need is at your fingertips. If you can't find something or need more information, contact your Chapter President, Area Director, or any National Officer. We are here to serve you.

Don't forget to make your plans for NACM's Credit Congress, May 16-19, at the Rio Hotel in Las Vegas. There will be something for everyone: NACM Scholarship Foundation Golf Outing, CFDD Awards and Installation Luncheon, Closing Night Disco Party, etc. Pick your sessions for a maximum learning experience and warm up in the carnival atmosphere.

Stay safe and have fun this winter season. Go out and make a snowman or snow angel.

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**NACM's Credit Learning Center**  
Your Self-Paced, Independent Learning Center

The **Business Credit Principles** course is now available!

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**Credit Learning Center**  
A SERVICE OF NACM AND FCIB

**BUSINESS CREDIT PRINCIPLES NEW!**

- **Special INTRODUCTORY price**
- Carefully selected, highly qualified professionals
- Presenting 29 modules covering important topics
- Complimentary copy of NACM's *Principles of Business Credit, 6th Edition*

# The Benefits of Obtaining a Judgment: Post Judgment Collection

By Holly DiCesare, Esq., Attorney, Bernstein Law Firm

Often times, when we as attorneys send suit requirements, clients are conflicted as to whether they should file suit. With the downturn of our economy, it is often stressful to think of spending upwards of \$300 on suit costs; some clients have compared this to “throwing good money after bad.” While spending the extra costs on suit may not seem worthwhile, obtaining a judgment against a Debtor can certainly provide the client with leverage, ultimately resulting in collection.

Anytime a new claim comes into our office, we make at least three phone calls, typically once a week, before suggesting suit. If we know that a business is no longer operating and there is not a personal guarantor, we do not suggest suit, as a judgment will not likely lead to collection. If we are able to confirm that we have a viable address for the Debtor and that the business continues to operate, suit is most likely the best option for the client.

Once a complaint is filed, a Debtor cannot ignore our demands without the risk of default judgment. After service of a Complaint by the Sheriff or otherwise, depending upon the applicable Rules of Civil Procedure, a Defendant has thirty (30) days to respond to the Complaint, typically by filing an Answer or in certain instances, Preliminary Objections. After twenty (20) days, we provide the Defendant with a Ten Day Notice. Once thirty days pass with no response, we are free to enter a Default Judgment.

Often times, we hear that it is the client’s goal to place a lien on the Defendant’s property. What clients sometimes don’t realize is that a judgment automatically places a lien on all property owned by the Defendant in the county in which the judgment is filed. There are of course some exceptions, for example, if the property is owned jointly

between a husband and a wife and the judgment is entered against only one spouse, no lien rights are created.

Aside from automatically serving as a lien on residential property in the county where judgment was filed, there are several other advantages to obtaining a judgment against a Debtor. Demands coming from an attorney are far more forceful at this stage of the game. There is only minimal cost associated with sending demand letters to the Defendant. This is a useful tool regardless of whether the client chooses to pursue any of the additional remedies listed below. At this stage of the process, making demands is different than it was before suit was filed, as there is now a judgment in place. The leverage in forcing the Defendant to pay is the judgment, which has now affected the Defendant’s credit and real property in the county where the judgment was filed.

Our most popular method of demanding on a judgment is garnishing the Defendant’s bank account. This option is only available if the client has banking information on hand. The costs associated with garnishment are typically \$150 and include filing fees and Sheriff’s service upon the Bank. After service, the Bank has thirty (30) days to respond to our interrogatories. If no response after thirty (30) days following service, we are free to move for a judgment against the garnishee. As soon as the Bank is served with our interrogatories, the Defendant’s bank account is “frozen.” Often, this will result in us being contacted by the Defendant. Regardless of whether contact is made, when we are in receipt of answers to our interrogatories, we are free to enter a judgment against the Bank for the amount the Bank admits to owing our Defendant in the answers. Note that individuals are entitled to a \$300 exemption, which is ordinarily automatically deducted from the Garnishee’s answers.

*(continued on page 3)*



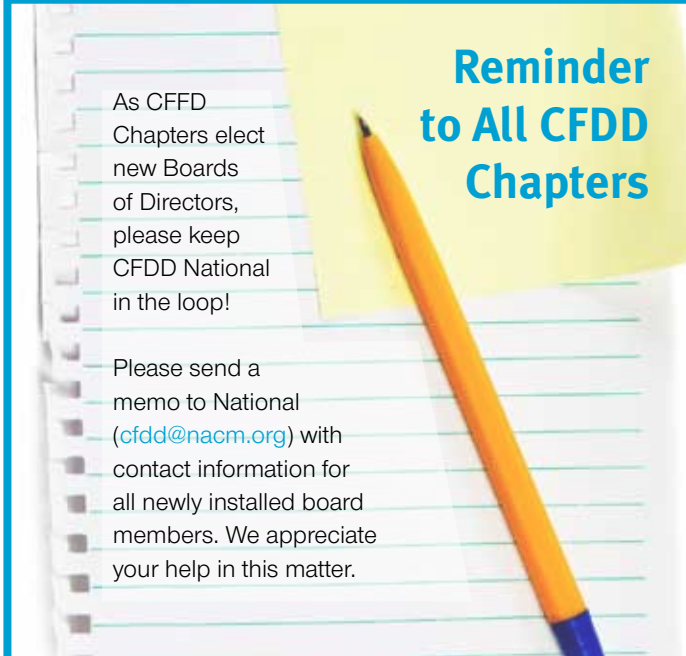
**2010 CFDD  
National Conference**

Mark your calendar and save the date!  
**October 7-9, 2010**

**Minneapolis Airport Marriott**  
2020 American Boulevard East  
Minneapolis, Minnesota 55425

**Registration Fee**

Member (CFDD/NACM)	\$350
Non-member	\$450



**Reminder  
to All CFDD  
Chapters**

As CFFD Chapters elect new Boards of Directors, please keep CFDD National in the loop!

Please send a memo to National ([cfdd@nacm.org](mailto:cfdd@nacm.org)) with contact information for all newly installed board members. We appreciate your help in this matter.

Another method of execution available to the client after filing judgment is a writ of execution directed towards the Defendant's personal property. The cost of filing and serving a writ of execution is approximately \$350. Because of the cost associated with an execution, executions should be used only when there is money or property owned by the Defendant (individually, not as a tenant by the entirety) that can be seized to satisfy a judgment. Typically, there is a period of five years after judgment is entered to issue an execution. After the writ is filed, the Sheriff has ninety (90) days to service and levy upon the writ.

There are two types of executions, real estate and personal property levies. Personal property is considered non-real estate property such as automobiles or household furnishings. In the case of a business, non-real property may include office furniture, computers or even stock. When an execution is issued to the sheriff for personal property, there need not be a description of the specific property to be seized. Personal property is tagged for purposes of identification when an execution on personal property is issued. The sheriff must post and publish a Notice of Sale advertising when the property will be sold. This must be done for six (6) days and must be posted in three specific places: (i) the sheriff's office; (ii) the place of sale; and (iii) the place of levy if different from the place of sale. Typically, personal property is sold at the place of the levy. A representative from the Plaintiff must be present at the sale and the Plaintiff is responsible for anything remaining following the sale.

Most personal property has exemptions. If a property claim is filed, the sale will not proceed before a determination is made on the claims. However, in most instances, the client isn't scheduling the sale to obtain the goods, rather the client is hopeful that the sale will lead to payment of the Judgment. Property claims do not solely apply to individuals. Even in this instance of a sale of business property, a secured creditor, such as a bank or other lending institution, might have a security interest in the assets of the business, which may take precedent over an execution. Therefore, it is important that a UCC filing check be

made on any business before executing on any of their assets to determine if there is a security interest in the name of a secured creditor.

Although suit can be a little costly, depending on the amount of a client's claim, suit is usually worthwhile, as the benefits normally outweigh the risks. Obtaining a judgment provides us with leverage that is far more likely to result in collection. Patience, along with a little time and money can go a long way in the collection world.

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### **Get P.A.I.D.: A Guide to Getting Paid Faster and What to do if You Don't!**

Bob Bernstein, partner in the Bernstein Law Firm and a nationally recognized lawyer and specialist in collection and creditors' rights, has seen the costly effects of credit. *Get P.A.I.D.™ A Guide to Getting Paid Faster (And What to Do if You Don't!)* is Bernstein's book explaining a comprehensive system for businesses and credit managers to increase profits, reduce costs and delays, while developing better relationships with customers. *Get P.A.I.D.™* advances a radical new philosophy, suggesting that credit policy isn't just about collections. His book lays out an innovative strategy for businesses to successfully manage their credit policy and collect for their sales. This book is available for order from the [NACM Bookstore](http://NACM Bookstore).



## **CFDD MISSION STATEMENT**

The mission of the NACM Credit and Financial Development Division shall be to promote active interest in the credit and financial profession, to develop and market educational programs that are vital to the development of the effective professional, and to be a viable force within the NACM network.

## **CFDD VISION STATEMENT**

To dynamically impact the National Association of Credit Management's global vision by being the leader in educational programming and direction, thereby setting industry standards for professional excellence.

# Industry, Regulators Bring Push for Small Business Lending to Congress

Brian Shappell, NACM Staff Writer

Following up President Obama's pledge to thaw frozen credit conditions for small businesses, industry panelists and members of several government agencies push for Congressional support of a new, temporary bailout fund.

Treasury Department Assistant Secretary for Financial Stability Herbert Allison said during a Feb. 26 joint hearing of the House Financial Services and Small Business committees that he believes a new stimulus effort, the Small Business Lending Fund, would attract more participation from reeling community banks than previous programs. He says the new program would not carry a stigma that was attached to borrowing through TARP and would not have the same type of expensive restrictions as TARP that made it difficult for small banks to participate.

Wes Smith, president of Michigan-based E&E Manufacturing, said community banks largely were not helped by previous government stimulus programs that appeared geared toward helping the largest banks.

"When the original TARP came out, the government picked winners and losers...and the small banks were left in the dark with a problem they didn't create," Smith said. Smith, speaking on behalf of the Motor

& Equipment Manufacturers Association, added that smaller banks will continue to struggle to make loans because of the many potentially problematic commercial real estate loans on their books, which could be alleviated by a government guarantee program, and catch-all draconian regulation that is inappropriate for banks that operate only on community and sub-regional levels. "Banks can't make loans because the regulators are stepping on their necks," Smith said.

Idaho-based Brighton Corp.'s David Turnbull agrees that prospects for small business and commercial real estate liquidity levels are doomed without being able to "offload some of its commercial real estate" from their books.

"Consider this: Without the existence of Fannie Mae, Freddie Mac and the Federal Housing Administration, we wouldn't have a housing market today, and we would be in a full-blown depression," said Turnbull. "The only equivalent we have today for these conduits in the commercial real estate market is TALF —the equivalent of the Fed creating a super-jumbo market for residential real estate while leaving the entry level to median-priced homebuyers dangling with no viable options. It will not solve the problem."

2010

**The 114<sup>th</sup> Credit Congress & Exposition shines in the City of Lights!**

NACM's Credit Congress has been a glowing beacon—educating, uniting and empowering the credit community. Join us in this great tradition and that of the Carnival at the Rio!

And, don't forget to make plans to attend the CFDD Awards and Installation Luncheon on Tuesday, May 18th!

**NACM's 114<sup>th</sup> CREDIT CONGRESS & EXPOSITION**  
MAY 16-19, 2010 • RIO HOTEL LAS VEGAS

## And the winner of the CFDD Scholarship Fundraiser is...

**Georgeann Weinhandl, CBA of Freeport-McMoRan Copper & Gold, Inc. in Phoenix.**

She is excited to be able to go to Credit Congress in Las Vegas this year.

The Raffle raised **\$1750** for the CFDD Scholarship Fund.

Thank you to all who participated!

## CFDD National Programs

CFDD Chapters will now be able to order the CFDD National Programs free of charge.

Programs to choose from:

- Human Resources and the Credit Manager
- Credit and Sales: United We Stand
- Credit Jeopardy
- Mentoring Program (Reprint)
- Antitrust and You

To order a program, email your request to [CFDD@nacm.org](mailto:CFDD@nacm.org). In the near future, these programs will be available for download from the CFDD Members Only Area of the CFDD National website.

# AWARDS & ACHIEVEMENTS

CHAPTER	MEMBER	COMPANY	AWARD/ACHIEVEMENTS
Dallas/Fort Worth	Alice Barboza, CCE	Chemical Lime Co./Lhoist NA	Distinguished Member of the Year
Minneapolis	Pamela Meyer, CBF	R M Cotton Co.	Forius Business Credit Resources James A. McIntyre Mentoring Award for 2009
	Barb Condit, CCE	SPS Companies	Certification Program for Rice County Adoption: 2009-2010 Corp.
	Bob Karau	Lindquist & Vennum PLLP	Polar Bear Plunge
Kansas City	Valerie Michael	Sioux Chief Manufacturing Co., Inc.	Scholarship
	Nancy Watson-Pistole, CCE, CICP		FoodOne Scholarship
Phoenix	Sheila Roames, CCE	Ergon Asphalt & Emulsions	Honorary Award for Dedication, Passion and Contributions to Chapter and Members

## CFDD is on LinkedIn!

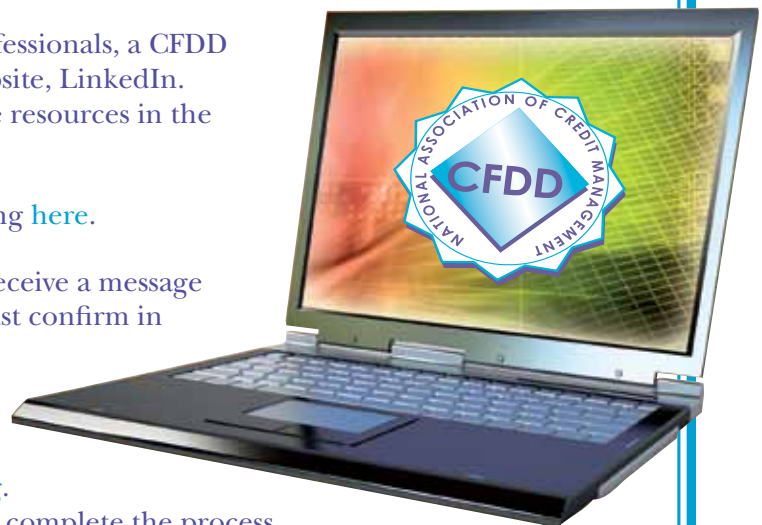
### JOIN US!

In an effort to provide a support system for credit professionals, a CFDD group has been created on the online networking website, LinkedIn. Here you will have access to some of the most valuable resources in the industry: other credit professionals like yourself.

If you haven't already, you can join LinkedIn by clicking [here](#).

After you complete the registration process, you will receive a message from LinkedIn to confirm your email address. You must confirm in order to use the functions within LinkedIn.

We look forward to seeing you in the CFDD LinkedIn community! If you need any assistance registering, contact CFDD National at [cfdd@nacm.org](mailto:cfdd@nacm.org). Your email will be forwarded to a member to help you complete the process.



Click [here](#) to get started!

# PROGRAM PICKS

CHAPTER	TOPICS	SPEAKER
Dallas/Fort Worth	HR and the Credit Manager: How Not to Fire “Red Flags” Regulations Team Building	HR Generalist Attorney Business Coach
Denver	What to Do Before You Call Your Lawyer: Contract Review Made Easy Small Claims As a Collection Tool	Attorney Credit Manager
Wichita	Four Reasons to Get Your Credit Manager Certifications LinkedIn Seminar	CFDD Member CFDD Member
Albuquerque	PCI Compliance Updates/Credit Card Processing Researching New Customers Using the Internet New Mexico Taxation Rules	
Kansas City	Managing Through Change The Difference Between Recovery and Recession Electronic Invoicing is Best Practice, Period	Staffing Company Economic Advisor
Portland	Challenges That Small Businesses Face Today: Two-part Series Business Fraud and Background Checks Measuring and Reporting Credit Department Performance	Banker and SCORE Speaker Certified Fraud Examiner Seasoned Credit Veteran
Phoenix	What Every Credit Manager Must Know About Electronic Evidence Improving the Perception of Your Value and Job Security vs. Employment Security A Day in the Life of Today’s Credit Manager Escheatment	Attorney NACM Board of Director CFDD Member Arizona Dept. of Unclaimed Funds
Raleigh/Durham	Personal Credit Scores PCI Compliance The Edge Report: Employment, Hiring and Compensation Trends	Vice Chairman/Chairman Elect Vice President, Cary Oil Co. Staffing Agency

## On the Way UP

CHAPTER	MEMBER	COMPANY	POSITION/PROMOTION
Kansas City	Ardyce Shipman	Complete Home Concepts	Past President and Past Area Director, Retired Feb. 5th
Portland	Brett Hanft, CBA	American International Forest Products	Credit Manager
Phoenix	Vickie Taylor, CBF William Doughtly	Russell Sigler, Inc., dba Sigler Avnet, Inc.	Manager, Credit Department Credit Manager