

# E~Credit News

The Business Credit  
Management Association  
Wisconsin

November 2018

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Wisconsin  
Credit  
Association



**SPACE STILL AVAILABLE**

**ANATOMY OF A  
PREFERENCE LITIGATION  
WEBINAR**

**NOVEMBER 13, 2018  
3:00 PM - 4:00PM**

You May Or May Not Have Known That The New-Debtor Was In Trouble. But You Provided Goods Or Services Anyway, And Were Paid For That. And Maybe You Provided More And Were Not Paid For Them. Now The Debtor-In-Possession Or Committee Or Chapter 7 Trustee Or Liquidation Trustee Wants You To Pay Back Funds You Justly Received? Yes, That's What Happens. What To Do?

Click [here](#) for the meeting announcement and register soon! You can also register [online](#).



**International Credit Executives Group**  
*Administered by Wisconsin Credit Association, Inc.*

[www.icewi.org](http://www.icewi.org)

## TARIFFS

**"HOW ARE WE INTEGRATING THEM INTO OUR BUSINESS  
PRACTICES" ICE MEETING**

**NOVEMBER 8, 2018  
8:00 AM - 3:00PM**

Current relations between China, Canada, Mexico, the European Union (EU), and the U.S. have sent countries hurling toward a tit-for-tat tariff war. The U.S. is set to impose billions in tariffs on Chinese goods and billions on imports. The effect of this tariff war can be significant on suppliers. What are the strategies for the credit team to tariffs? At this meeting, a number of presenters from Freight Forwarders and Brokers will be on hand to update us. Supply Chain Managers will discuss the disruptions they are experiencing and explain their policies in dealing with the new tariffs. There are legal issues to bring up, including surcharging for tariffs which will be talked about by a legal professional.

[Download Announcement & Registration](#)

**NEW ASSOCIATION MEMBER**

Lori

International

**NEW ASSOCIATION REPRESENTATIVE**

Alyssa Bartel

Phoenix Products LLC

Lisa Fenhaus Johnson

L&amp;S Electric Inc

**NEW GROUP MEMBER****INTERNATIONAL CREDIT EXECUTIVE GROUP**

Alyssa Bartel

Phoenix Products LLC

Lisa Fenhaus Johnson

L&amp;S Electric Inc

**NEW GROUP****MILWAUKEE ELECTRICAL PRODUCT SUPPLIERS  
GROUP**

Ross

Company

**MEMBER NEWS:**

## Case Study: Can "#2 Guarantor" Wrangle Out of Making Good on a Guaranty He Signed?

"We're coming to you to make good on the guaranty you signed with Arnie Johnson," said Frank Zeller of Cladandma Manufacturing.

"Yes, I had heard that Johnson wasn't paying his note as promised," replied Tony Young. "How much money did Johnson come through with before you turned to me?"

"Oh, we haven't contacted Johnson about the guaranty," Zeller corrected. "We decided to come straight to you for the full amount."

"Well, that's not right," Young protested. "I only signed the guaranty to guarantee collection. That means you have to try to collect from Johnson first."

"No, we believe you signed that guaranty to guarantee payment," Zeller countered. "Therefore, we can come to you without turning to Johnson for payment."

"That's not how I understood the arrangement," Young insisted.

"Well, the guaranty clearly says 'We, the undersigned, do hereby personally guarantee the due payment of the within indebtedness.' That doesn't say anything about you only guaranteeing the collection of the debt."

"Well, I don't think that language is very clear. I think it could be interpreted either way," Young claimed. "You see what you can collect from Johnson first, and get back to me."

"It's not going to work that way," Zeller insisted. "We've come to you first, and you will pay."

Did Young guarantee payment of this debt?

Make your decision: then look below for the court's decision and our analysis!

## Credit's Greatest Challenges

When we asked subscribers recently what they expected their greatest challenges to be over the next three months, most replies centered on increasing sales while holding down days sales outstanding (DSO) and bad debts. Quite a few also mentioned issues involving computer software conversions and meshing dissimilar credit operations and procedures in merger and acquisition situations. What really caught our eye, however, were the number that cited three challenges that, like controlling DSO, are inherent to all credit management. They are:

**Positive recognition from top management.** Most experts recommend making regular and frequent reports stressing Credit's contributions to profitability, and most credit managers we talk to do that. But, of course, there are subtleties involved. Wrote one respondent, "My staff and I have been together for eight years, and what we do appears to be easy. It's not." Then there were complaints that made you wonder if this particular top management was even capable of according positive recognition: "They undermine my authority by directing issues to my staff and not to me."

**Productive relations with Sales.** Tensions between Credit and Sales are a positive dynamic in any business organization. They show that you're both doing your jobs. But when these tensions prevent your working together to resolve agreements, then the system is breaking down. Frequent, but troubling, responses were adversarial declarations like: "Controlling Sales intervention with credit decisions." and "Sales always wins the tough credit decisions." Among the best responses we saw was simply: "Making difficult sales happen." That says it all. With that priority, this credit manager's relations with Sales have to be productive.

**Quality staffing.** This is careful selection, intensive training and continuous attention to motivation and morale. We all know that, but what happens when workload surges and you don't have the time or the budget to add to staff? That's what our respondents complained about, and there probably isn't any good answer—except to cross train and hope your motivational efforts pay off in a surge of effort. Finding qualified people and getting the budget to hire and train them were frequently cited challenges. The respondent we believe will have the best chance of overcoming staffing problems simply said, "Encouraging my staff to work to their full potential." Most of the challenges listed reflected some combination of considerable stress and great determination. But a few reflected depths of discouragement that probably won't be overcome. They included, "My boss," "Finding a new boss" and "Finding a new job."

## Understanding Three Types of International Credit Risk

There are three primary forms of risk to consider in international sales. Thanks to a presentation by Russell D'Souza, VP and Corporate Treasurer at Hanesbrands for some great advice for credit managers beginning to sell internationally.

### Political Risk

First, according to D'Souza, you must understand risks specific to each country when extending credit outside the U.S. While political risk in the domestic markets may be very minimal, in some foreign countries, the political risk could be very significant. A country's political situation may impact your ability to conduct business.



Russell D'Souza

## Understanding Three Types of International Credit Risk (continued)

In understanding political risk, you should know:

- How a potential "regime-change" might impact your business.
- How the foreign country's legal system works and what the potential is for equitable recourse in that country.
- The tariffs or duties on importing certain items.
- The documentation (import) requirements. This could include original commercial invoice with values per unit, bills of lading, certificates of origin, tariff numbers, etc. In some countries, the documentation requirements could be quite stringent.
- In some countries the bribery and corruption level may impede the ability of a U.S. firm to generate business.

**Financial or commercial risk** can be similar to the risk in the United States. The problem, however, is finding enough information on businesses overseas:

- Financial or accounting rules and regulations vary from foreign country to foreign country
- Credit information also varies by country. D'Souza warned that credit information is less dependable in parts of Latin America, Eastern Europe and developing Africa
- Small business owners may be reluctant to share financial information with overseas partners.
- Unlike the U.S., when receiving payments, bank transfer delays can range from a few days to several weeks. In addition, it is essential to know what documents are needed for payment.

**Sovereign risk** includes assessing the creditworthiness of a country's national government. While sovereign risk isn't something you think about when extending credit in the U.S., it can be a very significant factor in foreign countries. Things to determine are:

- Try to find out the potential for political changes that may result in the official seizure by a government of private property.
- The ability to receive full payment can be impacted by the relations between the United States government's relations with the foreign country's government.
- Budget deficits, balance of payments, IMF-rating and external debt situations should be included in the assessment of a country's sovereign risk.

The ability to collect money in a foreign country will be impacted by political, financial and sovereign risk. Understanding the impact on each of these factors will enable you to assess the potential problems before credit is extended.

## Case Study, the Answer: Can "#2 Guarantor" Wrangle Out of Making Good on a Guaranty He Signed?

**Question:** Did Young guarantee payment of this debt?

**Answer:** Yes.

UCC law clearly states that if a person intends to guarantee only collection of a debt, the document must set forth in "clear and unambiguous language" (such as "collection guaranteed" or other equivalent words) that the guarantor will only pay after the holder has taken all possible steps against the maker of the guaranty.

## Case Study, the Answer: Can "#2 Guarantor" Wrangle Out of Making Good on a Guaranty He Signed? (continued)

In this case there was no clear language stating that this was a guarantee of collection only. Even Young's argument that the intent of the guaranty was not clear could not help him, the court said,

*"[E]ven if the words of the guaranty are ambiguous and 'do not show whether payment, as opposed to collection, is guaranteed, the Code declares as a matter of law that the guaranty is one of payment.'"*

Therefore, ambiguous guaranties are always interpreted as guaranties of payment. Only those guaranties clearly marked guaranties of collection will be interpreted in this manner.

*Thanks to Credit Today's Legal Case Studies.*

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## REALLY HOW IMPORTANT ARE CREDIT REPORTS?

**Companies will pull a report on someone who wants a credit card or to rent but is it really that important to run one on a business?**

**Credit Reports are just too expensive! We lose too much money because we are penalized if we go over and if we don't estimate the right amount of reports to pull we are charged an excessive amount of money.**

**They are too difficult to understand and WAY too expensive!\***

**YES it is important to run a credit report.** Information in a business credit report can determine if a potential buyer has paid its lenders on time and predicts the timeliness of how it will pay its bills. Businesses rely on clients to pay their bills, but as many of us know all too well, clients will frequently take their sweet time paying invoices as part of their cash-management strategy, because their working capital is taking a hit from their own late-paying clients, or because they are in dire financial straits. Whatever the reason, you need to do what you can do to limit your company's exposure to such a risk.

Anyone in finance has dealt with a pile of overdue invoices and knows the frustration and potential damage late payers can bring. To avoid such problems in the future, you need to revisit your process for extending credit, or else, you will continue to experience delinquent payments and the risk of invoices that never get paid.

### Why Are Credit Reports Important?

Pulling a credit report does not mean that you will be paid on time – but it improves your chances. Not every client needs to be investigated- companies have to weigh the time and effort for evaluating a client's credit worthiness as well as the risk of turning away a potential client. Yet it is always great to have that option.

### Check their credit history.

But do you pull credit reports on the companies with whom you do business? After all, business-to-business transactions, credit is often extended directly or indirectly.



## REALLY **HOW** IMPORTANT ARE CREDIT REPORTS?

A baker who delivers to restaurants with “net 30” terms can have thousands of dollars in bread out there while he waits a month for payment.

A roofing contractor can pay out thousands in employee wages on a project long before he collects anything more than a deposit for materials.

Yet, despite the fact that they’re routinely extending credit in a major way, many business owners don’t use credit reports. Matthew Debbage, president of a U.S. operations, a business credit reporting bureau, says that half of the company’s new customers have never used a credit report.

So what kind of businesses should use credit reports to vet their customers? Just about all of them, according to Debbage.

In order to provide maximum value to our clients, The Business Credit Management Association (BCMA), Wisconsin Credit Association (WCA) provides access to many databases under one single, low cost, report subscription. There’s no need to subscribe to individual databases in order to receive the best credit reports available. BCMA/WCA offers it all, from consumer reports to reports on International customers and everything in between.

We wrap up a program for you that automatically provides multiple databases in one single subscription. Sound simple? It is! Current subscribers already enjoy the flexibility described, and rely on their professional Association for data that assists them in the credit worthiness decision.

Other features include no annual fees, no contracts to sign, no subscription expiration dates, and no “use-em” or “lose-em” conditions! If you are interested in getting more for less, saving time and money, managing your credit reporting costs, the Association is your solution!

Call or email today for more information on our credit reporting services. We have a plan that will work for you!

## SEE WHAT THE ASSOCIATION CAN DO FOR YOU TODAY AND HELP IMPROVE YOUR BUSINESS.



**\* Sample Reports are available**



# TSYS Merchant Solutions<sup>SM</sup> (Partners)

Need credit card payment solutions for your business? Whether large or small, TSYS has the customized solutions to fit your business needs. BCMA partners with TSYS because they are focused on creating more value in our client relationships than ever before, and their voice has emerged as one of the most trusted in the payments industry. This true spirit of partnership, and the accompanying understanding that our success is determined by our clients' success, infuse everything we do. Whether you're LOOKING TO BEGIN ACCEPTING CREDIT CARDS, or LOOKING TO LOWER YOUR

CREDIT CARD SURCHARGE FEES...TSYS will help. Contact the Association at 262.827.2880. We'll put you in touch with a representative that will assist you. TSYS was named to Ethisphere's 2013 World's Most Ethical Companies List!

\*NACS Credit Services, Inc

\*Pennsylvania Association of Credit Management

\*The Business Credit Management Association Wisconsin

## Contact Us

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## GOT AN IDEA?

Would you like to contribute to the BCMA Newsletter? The most important part is your idea. We can handle the polishing. Just write to us at [BCMAEditor@CreditToday.net](mailto:BCMAEditor@CreditToday.net) with your idea!

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## UPCOMING INDUSTRY CREDIT GROUP MEETINGS

### **NOVEMBER 6, 2018**

Metals & Industrial Suppliers Credit Group  
Brookfield, WI

### **NOVEMBER 8, 2018**

Food Suppliers Industry Credit Group  
Madison, WI

### **NOVEMBER 9, 2018**

Electrical Suppliers Industry Credit Group  
Delafield, WI

### **NOVEMBER 13, 2018**

Fine Paper/Graphic Arts Industry Credit Group  
Teleconference Call  
Regional Paper & Packaging Industry Credit Group  
Teleconference Call

### **NOVEMBER 14, 2018**

Plumbing & Heating Industry Credit Group  
Delafield, WI

### **NOVEMBER 15, 2018**

Construction Industries Credit Group  
Appleton, WI

### **NOVEMBER 16, 2018**

IL Fine Paper Industry Credit Group  
Lombard, IL



### **NOVEMBER 18, 2018**

Food Service Supply Hospitality Industry Credit Group  
Delafield, WI

### **NOVEMBER 19, 2018**

Western Electrical Suppliers Industry Credit Group  
Madison, WI

### **NOVEMBER 20, 2018**

Building & Construction Materials Credit Group  
Milwaukee, WI  
Iowa Plumbing Heating Electrical & Construction Industry Credit Group  
Teleconference Call

Minnesota Fine Paper Credit Group  
Teleconference Call

### **NOVEMBER 21, 2018**

Minnesota Electrical Product Suppliers Group  
Brooklyn Park, MN

### **NOVEMBER 27, 2018**

WI/IL HVAC Industry Credit Group  
Rockford, IL



## 2018 Educational Events

**November 5**

CBMN Roundtable Discussion

**November 13**

"Anatomy Of A Preference Litigation" Webinar

**December 19**

"Anatomy Of A Fraudulent Transfer Litigation"

Webinar

CHECK OUT OUR [CALENDAR](#) FOR MORE UPCOMING EVENTS.  
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IN THE WORLD.

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