

## **Management of an International Commercial Collection Claim**

In this era of globalization, it's imperative that one has a good understanding of the fundamentals of international collection work in order to protect their interests worldwide. Along with some patience, efficient file management can really open up the potential for success.

### **1. What is needed to commence an international collection claim?**

At the very least, a Statement of Account and invoice copies, as well as the last known address and contact information for the debtor company are required.

In order to increase chances of success, it is also advisable to provide a brief summary of the matter including an outline of the relationship between the parties, an overview of collection efforts to date and/or whether there is any known dispute on the matter, as well as copies of email communication between the parties, contract or agreement documents, credit application, purchase orders and/or delivery documents.

The ability to review such documents in advance of contacting the debtor allows the agent to fully understand the claim and be well equipped to respond to any dispute or denial the debtor may raise.

### **2. What is the related cost?**

Pre-litigation collection efforts can invariably be arranged on a strictly contingent basis (i.e.: no collection – no fee). In such an arrangement, no costs would be advanced without the creditor's advance approval. In the event that a skip trace, site visit or asset investigation is recommended in order to advance a file, the creditor's authorization of the anticipated costs would be required before proceeding.

### **3. What are some of the challenges experienced in international collection work?**

#### **a) Economy/Country Risk**

One of the biggest challenges is of course the general economy. Since 2007, the economic pressures and limitations affecting our global economy have been very real. In some cases, the debtor company has failed and the claim is simply not collectible. However, such a situation should be confirmed locally before any decision is made regarding writing off the debt.

Political and civil strife can also be an issue in certain countries, for example the aftermath of a contested election or other localized protests.

## b) Statute of Limitations

As a general rule, a newer claim is more likely to be collected than one that has already aged. Furthermore, an aged claim may be subject to Statute of Limitations, which can vary greatly depending on the jurisdiction.

Although collection work may be undertaken after the Statute of Limitation has expired, legal action is no longer an option and many debtors understand this concept.

## c) Jurisdiction and arbitration clauses

If the claim is subject to an underlying contract or agreement, it is likely that a place for litigation has already been designated. Likewise, there may be an arbitration clause which would preclude recourse through ordinary courts.

It is therefore important that such documentation is provided in advance of considering any legal action against the debtor; although such clauses do not apply to pre-litigation collection efforts.

## d) Communication barriers and time delays

Due to the international nature of the work, it is not unusual to encounter a language barrier and/or differences in culture and legal regulations. Although an agent will be obliged to have a good command of the English language in order to work on behalf of American creditors, it is likely to be their second language and as such misunderstandings can occur unless closely monitored. Furthermore, a term which might easily be understood in the United States may have an entirely different equivalent in another country.

Once the debtor has been successfully contacted, the creditor's assistance may be required to provide additional documentation, clarification or instruction. If there is a delay in obtaining same from the creditor, the possibility of collection may be jeopardized. This is especially important in the event that the debtor makes an offer of settlement as even a short delay can change the availability of funds or budgeting restrictions of a troubled company.

This article is offered as an overview of the international debt collection process (pre-litigation stage) and more specifically to assist collection firms in managing their client files in the most efficient manner, from a strictly administrative standpoint. Under the direction

of Mr. David Franklin, Ad.E., the firm of Franklin & Franklin has a vast network of international attorneys and agents available to assist in the collection of overdue receivables from debtor companies, regardless of their location. Our experience in working with international attorneys and agents mitigates the risks which otherwise might occur if a creditor attempted such efforts themselves.

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