

The Collector Chronicle

NORTH AMERICAN RECOVERY

May 2011

Utah's Collection Authority

LAST MONTH'S LUCKY WINNER

The lucky winner of our client prize for April is Emergency Service Physicians in Denver, Colorado. We work with Doctor Stackpool and their group has been with our agency since 2008.

Congratulations!!

We will be sending Dr. Stackpool a gift certificate good for dinner at the Cheesecake Factory. Enjoy!



SHOULD YOU SETTLE?

BY DAVID J. SAXTON

President, NORTH AMERICAN RECOVERY

One of the most difficult situations a new collector encounters is trying to decide if he should settle an account. If you aren't familiar with the term, it means you accept less than what's owed and write off the remaining balance.

When I first started in collections I struggled with the concept of settlements because in my personal life, I'd never thought of paying anything less than what I owed. But I was in for a big surprise. As it turned out, debtors seemed to think that since they hadn't paid their bill, ignored their statements, changed their phone number, and avoided the creditor, they could offer to settle their account. I also learned that some clients believe settling an account is a good idea. (It's the old adage about a bird in the hand is worth two in the bush.)

Here's what would happen: a debtor would call a client and offer to settle their account by paying \$2,000 instead of the \$3,000 they owed. It sounded like a great deal to the client because they hadn't heard from the debtor in over a year. They had essentially given up on the account. But that's not all; the debtor would follow up by saying the offer is only good for 10 days. If the client didn't agree to settle, the debtor would file bankruptcy. If the account was current, the client wouldn't even think of settling, but since it was a collection account (and they hadn't received a payment in over a year) the client reasoned that \$2,000 is better than nothing, and agreed to settle.

But more often than not, this would end up being a bad move and here's why. A debtor NEVER calls "out of the blue." There is always a good reason for their call. I promise you the debtor didn't wake up one morning and *freak-out* because he hadn't paid his bill. There is something else motivating the call. Usually it's because he is trying to

THIS MONTH'S PRIZE

This month we will be giving away a gift certificate good for a one-night stay at the Anniversary Inn. Each client who sends new accounts during the month of May will have their name entered into a drawing. At the end of the month we will draw a name, and if it's yours, you'll win the prize.

***Don't miss out on your chance to win; send new accounts in May!
Good luck!!***



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qualify for a mortgage, a car loan, or some other type of credit account. But, because we reported the collection account to the credit bureaus, the bad mark has caused him to be turned down and now he's trying to clean up his credit. In order for him to qualify, he has to do one of two things: (1) convince the client to settle or (2) pay the full amount. So that's why the client gets the "settlement call."

All the debtor really cares about is a clean credit report and when the debt is settled, the debtor gets his loan and the client never knows anything about it. I found this out the hard way when I settled an account in my early collection years. Two weeks after we settled, I received a call from a mortgage company asking to verify that the bill was paid. I asked why and they said it was because the debtor was applying for a \$250,000 mortgage! From that day on I decided that if it was up to me I would NEVER settle an account again.

That worked for a while, but I discovered I needed to make exceptions sometimes. There are two situations in which I advise a client to settle. The first is when we sue the debtor and it looks like the case will end up going to trial. This only happens on about 1 out of 300 accounts, so it's not a big percentage. However, when this situation arises I attempt to settle before the trial.

The reason we want to settle is purely economics. We're confident we would win the case, but if the account is under \$7,500, the eventual return for our client is not worth the effort. Here's why: In a civil action, the plaintiff (us) must prove their case by a preponderance of the evidence. This means that the evidence we present must be more convincing than the debtor's. This takes a lot of additional time and expense for our clients. The

debtor, in turn, has the opportunity to tell their side of the story. We've found that they sometimes "forget" what really happened and make less than accurate statements. This causes quite a bit of frustration for our clients. And even if the defendant (debtor) doesn't have a leg to stand on, and all of their reasons for not paying are completely unfounded, they still have the right to call witnesses, present evidence and testify.

The trial will take a full day, and when we factor in the pre-trial conference, the research and prep time, and the fact that at least two, or possibly three people from our client's office will be required to attend the trial, we're investing a lot of our client's time in something that isn't guaranteed. When an account has a balance of \$7,500 or less, the maximum return for the client will be \$3,750. And when you consider things like two full days away from the office for two or three key employees, and the loss of new business because the employees are out, it makes sense to settle these accounts. However, accounts with balances well over \$7,500 are a different story. The time it takes for a trial on these is usually worth it.

The other instance you would consider settling is if you receive a call from a debtor's bankruptcy attorney. This is a good sign that they are, in fact, going to file. If the attorney offers a settlement, you should take it. Otherwise, if a debtor threatens bankruptcy, but doesn't have an attorney, it's probably just a stall.

In conclusion, it's best to take the approach that you never settle. That way you will flush out the debtors who are bluffing. And when you do find yourself agreeing to settle, you will know that you've made the right business decision.



The *Collector Chronicle* is published monthly by NORTH AMERICAN RECOVERY for prospective and current clients. Please direct questions or comments to Dave Saxton at the address or number listed below.

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