

THE CREDIT TIMES



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Major Change on Personal Credit Reports that can affect B2B Creditors

By Bryan Rafferty

The three major credit-reporting firms: Equifax, Experian, and TransUnion, have enacted what is called the National Consumer Assistance Plan (NCAP). All three credit bureaus will be removing most tax-lien and civil-judgment data from individual credit reports beginning in July 2017. This change will apply to new tax lien and civil judgment data as well as existing data on the reports. This decision was made due to pressure from Federal organizations such as the CFPB (Consumer Financial Protection Bureau), as well as enforcement actions by more than 30 state attorneys general.

For tax liens and civil judgments to be reported, the credit agencies would be required to have the consumers' names and addresses, as well as Social Security numbers and/or dates of birth. Many liens and most judgments do not include all of that data, in part because Social Security numbers are often redacted for security reasons. Additionally, the records will not be included without courthouse visits to obtain newly filed and updated public records at least every 90 days. In many cases, the three major credit bureaus were not able to follow up in a timely manner. The CFPB made it clear that this will not be tolerated and would fine the credit bureaus for inaccuracies.

As of now, this is specifically for consumer credit reports. However, this new policy will have a ripple affect into the commercial world, especially for those B2B credit extenders that depend on Personal Guarantees to help secure their credit decisions. Without civil-judgments and tax lien information being reported by the three major credit bureaus, an individual may look more credit worthy than they actually are. Creditors using these reports to review an individual's credit worthiness should also identify additional sources for information including public records and paid services.

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After two decades of service, Paul Levine, Legal Coordinator at The Commercial Collection Corporation of NY, Inc., is retiring. Paul joined CCC in 1997 and has been part of the company ever since. For the past 20 years, Paul has been dedicated to the success of CCC. All of us at the company want to thank Paul, and wish him the best as he begins this next chapter in his life.



Congratulations to Becky Harvey from Service Partners & Mike Krzesik from Ulbrich Stainless Steel & Spec on winning an Amazon Kindle Fire in our drawing.

Make sure to enter this month's drawing by using your Special Placement form. For every claim you place you will be entered for a chance to win one of two Echo Dots.



Evaluating Payment Plans

By Joe Shur

Attorney at Relin, Goldstein & Crane

The following is a fictional story based on real scenarios that often occur:

A local restaurant owed a creditor \$4,400.00 for services rendered. The debtor was disputing the claim, but after receiving a demand letter from the creditor's attorney, the debtor made a settlement offer of \$3,300.00 payable at \$330.00 a month. The offer was made in an effort to try to avoid litigation. Despite the agency's and attorney's recommendation to accept the offer, the creditor wanted \$4,200.00 at \$420.00 a month. The parties were at an impasse and the creditor authorized litigation.

After being served with the lawsuit, the debtor retained their attorney and responded by filing an Answer and Counterclaim. On the advice of the creditor's attorney, the creditor notified their insurance carrier, who in turn retained counsel to defend against the counterclaim. During the suit process, the creditor motioned the court for summary judgment and also included a motion to dismiss the debtor's counterclaim. The trial court denied the creditor's motion for summary judgment, but granted their motion to dismiss the counterclaim. The debtor's attorney appealed, and the trial court's decision was affirmed on appeal.

The appeal process was lengthy and took over a year to complete. Once the appeal process was concluded, the case was then put back on the trial court's docket. During the time that this matter was in the appellate court, the debtor corporation went out of business. The creditor did not have any personal guarantees, rendering all responsibility of this balance to a now defunct entity.

The creditor not only had no chance of a recovery, but also spent nearly \$600.00 in court costs. In addition, the creditor was responsible for covering the expense of their deductible as their insurance carrier was involved due to the defense of the counterclaim.

This story illustrates how important it is to effectively weigh your options when considering a settlement, even if it is not exactly what you want. Always ask your collection representative for a recommendation; ask if the agency and/or attorney have seen other cases against the debtor; does a search of the county clerk's records reveal a lot of litigation, etc. Always take into consideration the information you gathered along with the circumstances that surround that specific claim. This will allow you to make an educated decision, and the chance of a recovery will be greater even if it is paid over a period of time.

In many states, an attorney is able to secure payment arrangements with an affidavit of confession of judgment or a stipulation of settlement to expedite the entry of a judgment in the event of a default. Counsel will watch and monitor payment plans closely and quickly identify payment trends.

Having confidence in your collection professional and the attorneys that they hire will pay dividends down the road and avoid situations like the one described above. The goal of your collection partners is to help creditors make informed and educated decisions based on an individual account basis.

Believe It or Not

The 2017 NACM Credit

Congress is this month June 11th-14th!

This year it will be held in Dallas, Texas at The Gaylord Texan.

Our booth number is 408. Be sure to stop by and visit with us. Email brafferty@commercialcollection.com if you plan on attending.



For more information on any of CCC's services...

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