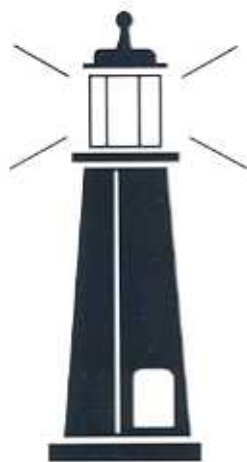


Credit  
Professionals  
International



2002/2003  
Education Manual



**YOU, the CPI member,  
are the  
“Light To The Future”  
For Credit Professionals  
International!**

**Only YOU can attract and obtain a  
new member!!  
Announcing awards for the 2002-2003  
Membership Drive**

**DISTRICT LIGHT-HOUSES**

- 3 *50 Light-Houses (credit dollars) to the District with the largest percentage of local associations maintaining their membership.*
- 3 *50 Light-Houses (credit dollars) to the District with the largest percentage of local associations increasing their membership.*

**LOCAL ASSOCIATION LIGHT-HOUSES**

- 3 *All local associations that maintain their membership will receive a Light-House Certificate.*
- 3 *All local associations that increase their membership will receive a Light-House Certificate of Achievement.*
- 3 *The names of these associations in each category will be placed in a drawing to be held at the International Conference 2003. Each winning local drawn will receive 50 Light-Houses (credit dollars).*

**INDIVIDUAL LIGHT-HOUSES**

- 3 *Each member who recruits a new member will receive 5 Light-Houses. Please notify Corporate Office when the new member's dues have been paid to get your credit dollars.*

The “LIGHT TO THE FUTURE” membership drive begins **October 1, 2002** and ends **May 31, 2003**. Corporate Office will retain the records and calculate the winners. No paperwork required by the Local or the District.

**Leadership Integrity Growth History Teamwork**

*Credit  
Professionals  
International*

*2002/2003  
Education Manual*

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## CPI: Light to the Future



Congratulations, Marlene. Your articles for the 2002-2003 Education Manual are very "enLIGHTening."

It is with pride that we have so many of our members ready to step up and write an article for the education of their fellow members. The articles are varied and of interest to a broad spectrum of our membership.

As this is the year of LIGHT, we want all of the members to be a LIGHT, by being a mentor, bringing in a new member (remember there are rewards), or submitting a new idea for CPI and our future. We are all the future of CPI.

I think this manual reflects the following quote:

*"You cannot hold a torch to light another's path,  
without brightening your own."* Author unknown

Continue the

Leadership   Integrity   Growth   History & Teamwork.

*Mary Jo Malarz, CCC&MPCCE  
International President*

## The 2002/2003 Education Manual



I used to be a bit blasé about the Education Manual. It wasn't until this year when I was responsible for it that I came to really respect the work and dedication it represents.

Thank you to the Education Committee and especially to the authors. Of the 14 articles, 11 were written by CPI members and the other three by people we had heard speak at CPI events. So, this is truly your manual.

You will find a variety of topics to appeal to the many segments and people in our industry. Some will help in your business, such as collections, customer service, privacy act and protecting your company's assets when customers declare bankruptcy. Others will help in your personal life, such as facing downsizing, buying a house, lobbying your legislator, senior planning, overcoming obstacles, budgeting and selecting a tenant who will pay the rent. Another, "Marketing CPI", will help in promoting membership growth in your local association.

Here is the tool to assist your association in planning excellent education sessions and to help illuminate the "CPI: Light To The Future".

*Marlene Wilcox, CCCE  
International First Vice President*

## Making Collection Calls Count



*By Brian Watkins*

Of the many duties in an office, there is one that can strike fear into the hearts and minds of credit and collection people more than any other—calling and asking for money! The goals of this presentation are to allow the collector a better way of asking for payments, try to achieve a higher degree of success in getting payments, get larger payments, and try to establish in the collector's mind a better way of dealing with collection calls without leaving a negative impact on their attitude toward this part of their job.

In this article, we will cover some very specific scripts that can be applied as general guidelines in your own phone efforts. Before we get into the details, it's important we have a foundation of understanding as to what works and what works best without belittling and embarrassing your customers. Many different tactics work in an office and this article isn't meant to exclude any of them. However, for office personnel that do a large volume of collection calls, it's important to know what works BEST.

First, a quiz! Answer each True or False.

1. The credit policy in my office should never be blamed for difficulties the customer may be having with us regarding payments, payment plans, etc.
2. It is best to tell the customer how much they need to pay for a monthly plan.
3. It is best to tell the customer that you'll accept "even \$5 a month" to keep their account in good standing.
4. When talking with a customer who is in default, it is best to control the conversation by getting right to the point and telling the customer what is acceptable and what isn't, not letting them get a conversation started and getting you off-track.

5. Asking questions and then pausing while an uncomfortable silence occurs is a very effective way to control the conversation.

**Quiz Answers:** 1-4 are false, 5 is true. Never blame another person in your office for problems, blame the office policy. It is best to ask and allow people to answer, and it is not as effective telling people what to do or demand they do something. No one likes being told what to do, but we all feel better about having a say in what we are doing.

We will begin by examining six points that are the foundation to a successful collection call.

**#1. TWO REASONS PEOPLE PAY.** There are two appeals for payment; the first is to Pride or Honor, and the second is to Anxiety. You should always appeal to the first before the second, and the second should always follow the first.

Appeal #1—Pride or Honor: Simply put, this is reminding people of their obligations and the benefits for keeping them. Most people pay their bills because it's "the right thing to do," they signed a contract, or they recognize it is their duty to pay. This can go a long way toward getting payment and keeping the customer. If asking for money is difficult for you, ask them to honor their promises, agreements, or obligations.

Appeal #2—Anxiety: This is never a threat, simply a promise of things to come. This is the ultimate end of their account with you if they fail to keep it current. If a person doesn't pay, then something negative will happen next, such as being turned to a collection agency, negative credit reporting, filing a lawsuit, writ of garnishment, etc.

People will pay their debts because they know they should, or because something bad happens if they don't. Find the reason for your customer, and then make it part of your call.

**#2. NEGOTIATE DOWN, NOT UP.** You can easily negotiate a payment plan downward, but it is difficult if not impossible to negotiate a plan upward. If you ask for the balance on a \$1000 account, you may end up with \$50 per month payment arrangements. If you start with \$50 per month payment arrangements, you will likely end up with \$15 payments every other month. Ask expectantly for the balance, using the "assumptive close" of a good salesman, and then allow the customer to tell you what they can pay. Think about the time you walked on a car lot, kicking tires and looking at prices. The salesman walks up, says "These are nice cars" and then asks "What color do you want?" The assumption is you ARE going to buy the car, we just need to figure out what color. A good collector takes the same approach. The customer is going to pay the bill, we just need to figure out the terms.



**#3. WAIT FOR ANSWER.** You can control the conversation through deliberate use of questions or leading statements and then allow the customer to fill in the blank. Allow that uncomfortable pause to end **ONLY** when the customer answers your question. If they ask another question, or fail to answer your question, restate your question and WFA. You will be surprised at the offers made by the customers in these situations, usually more than you'd expect. They are also more likely to keep these arrangements since it was their idea.

The power of WFA cannot be underestimated. Allow people to tell you what's going on in their lives and with their finances. Don't assume you know what they can pay. Let them tell you what's going on and what they think they can pay, and give them at least one opportunity to lie to you. You will be in a better position to negotiate when you have more of the facts and you are the one going more than half way in an effort to get this resolved. Remember, no one likes being told what they must do, but we all like inventing ideas that solve problems.

**#4. HOW - WHEN - WHAT.** Make these statements in the close of every call, and repeat them at every opportunity.

HOW much they will pay.

WHEN it is due on your desk or in your office (not in the mail).

WHAT happens next.

Remember, you must know the file information before making the call. If this is your first conversation, expectantly ask for payment in full, regardless of the amount owed. If the person laughs, or says they can't pay it all now, ask:

"How short of the balance are you?" or "What can you pay?"

Close each and every call with these three items (HOW WHEN WHAT), repeating them if necessary.

A few other phrases that will be helpful in identifying with your debtors and customers are "I understand" and "feel.. .felt.. .found". Who among us doesn't know what it's like to have more month than money? We have all been there a time or two, and so we can relate to the people we are dealing with. "Yes, Mr. Customer, I understand what you're going through. I've been there myself and know exactly how hard it can be." It's incredible how barriers are broken down when the collector and debtor are able to relate to each other on a personal level. "Mr. Customer, I know how you feel, I felt the same way when I was going through an ordeal. But here's what I found out; if you make an effort to

pay..." This type of statement allows the collector to seem like a real person, if it is genuine. You do not want to come off as a slick snake oil salesman, so don't manufacture emotions. Be yourself. Be honest and try to help people learn the life lessons you already know.

**#5. OFFER POSITIVES.** Try to offer a positive for every negative. Some positives might be "keep your account in good standing," "keep this account from my manager's desk for review," "Build good faith in our office," "prevent this account from going to a collection agency," "prevent this account from going to small claims," "establish a good credit rating in our office," and so on. There are always positives to offer, and you want to take every opportunity to give them away. A collector who only threatens negative, says negative, and offers negative will not last long in their job, will be sour most nights when they go home, and will not be as productive as they should.

**#6. IT'S NOT MY FAULT.** People still ask me questions about how I hold up emotionally doing collection work. They tell me it must be difficult and draining to continually be dealing with negative people about money they say they don't have. I have developed a simple answer: "It's not my fault they didn't pay their debts." Why should the debt collector be made to feel like the bad guy in this transaction? Every client that has ever hired my company has told me the same thing: "If these people would simply be honest and make an effort, we'd never turn an account over for collection." Amazing to think that an entire industry could be put out of business if people took that approach with their creditors. The power to stay out of the collection cycle is there for most people, if they choose to take advantage of it. It's not the collector's fault people don't pay as agreed.

Now we are ready to look at some script examples to help your calls be more effective.

#### **Group 1 - First Call or Contact**

"Mr. Customer, my name is \_\_\_\_\_ and I'm with \_\_\_\_\_. I'm calling in regards to your account with our office. The amount due is \$ \_\_\_\_\_. I need to know when you are going to get that paid." WFA

#### **Group 2 - First Broken Promise Calls**

"Mr. Customer, I understand your situation right now. I'd be happy to work out a financial plan to get this resolved in a timely manner, as you have promised before. If we can get this resolved today, I can keep your account in good standing in our office. Will you do that?" WFA

"Your payment was due last week/month. When will you be in to get your account current?" WFA

"I can send you another statement this month, but I still need last month's payment and this month's payment to get your account current."

### **Group 3 - More Broken Promises**

"You have been a good customer with us for quite some time, and I want to do everything possible for you, but our office policy states that accounts past due this long must be sent to our collections department (office manager, administrator, doctor, etc.). Will you get your account current and keep it in good standing?" WFA

"Mr. Customer, your account with our office is in serious default. My only option is to turn it over to our office manager (collections, administrator, etc.) for final review. You can avoid that by making a payment of \$ \_\_\_\_\_ today." WFA

"After full review of your account, you have left me no alternative but to send this account to our collection agency if it is not paid in full (brought current) by tomorrow. Is that what you want me to do?" WFA

"Our office policy is to turn accounts this far in arrears to our collection agency. What can you do to keep that from happening?" WFA

### **Group 4 - Closing Comments and Control Comments**

"Mr. Customer, I understand what you're saying, and under the circumstances I think the payment plan you offered will work fine. I look forward to your payment of \$ \_\_\_\_\_ to be here in my office on the \_\_\_\_\_, or I'll need to refer this account to (manager, agency, etc.)"

"You have owed this balance for \_\_\_\_\_ months now, and all you've given me are broken promises. On \_\_\_\_\_ you promised payments of \$ \_\_\_\_\_ and didn't make them, and again on \_\_\_\_\_ you promised payments of \$ \_\_\_\_\_ and didn't keep that promise either. If this account is not paid in full by the end of this week/month, it will be referred to (manager, agency, etc.)"

"What do you want me to do?" (This question can get you to the bottom line quickly!)

"I am willing to work out a payment plan to help you but you must follow through on your promises."

## Seven Factors to an Effective Collection Call

- 1 - Ask for payment in full.
- 2 - Remember, it is easier to negotiate downward.
- 3 - Repeat HOW, WHEN, WHAT in the closing of each call.
- 4 - WFA
- 5 - Let people know what is expected of them through the office policy and conversations.
- 6- Don't take it personally when people don't pay.
- 7- Always follow through on your promises.

Happy collecting!

### *About the author*

*Brian Watkins is a graduate of Butte Falls High School in Southern Oregon, and has attended Oregon Institute of Technology and Rogue Community College. He has completed the Schofield Course of Studies through Moody Bible Institute in Chicago. He has earned national certification as a Certified Collection Agency Executive, has served as President of Medford Credit Professionals International 4 times and President of Grants Pass Credit Professionals International 3 times. He is currently Membership Chairman for the Oregon Collectors Association, President of the Credit Association of Oregon, and Editor of its newsletter.*

*Brian began with Southern Oregon Credit Service, Inc. over 11 years ago as a Client Services Representative. He was promoted and served as Director of Client Services for eight years. He opened and managed the Grants Pass office for nearly two years before being promoted to vice president in 1999. Brian recently completed the purchase of SOCS and is now owner and President. He frequently speaks about credit and collections at high schools, colleges, professional associations, conferences and seminars.*

*Brian has been married to his lovely wife Denise for over 14 years and enjoys spending time with her and their four beautiful children.*

# Downsized! Merged! Going Out of Business!

*By Arleen Bedingfield*

No matter how long we have been on the job and no matter how well established our employer is, sub-consciously we all fear one day it will be announced "We are downsizing" or "We have merged with" or "We are going out of business." What then?

## FEDERAL LEGISLATION

There are two federal laws designed to protect and/or assist workers who are facing layoffs. The first is the Workforce Investment Act (WIA) which mandates that every state must have a program to establish a one-stop center to advise and help dislocated workers. The second act is the Worker Adjustment and Retraining Notice (WARN)

WARN offers protection to workers, their families and communities by requiring employers to provide notice 60 days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either the affected workers or their representatives (e.g., a labor union), to the state dislocated worker unit; and to the appropriate unit of the local government. In general, employers are covered by WARN if they have 100 or more employees, not counting employees who have worked less than 6 months in the last 12 months and not counting employees who work an average of less than 20 hours a week. The benefits of the act are available to employers facing a layoff of 15 or more individuals or any size plant closing.

### **Services Available for the Employee:**

- Stress Management
- How to obtain Unemployment Insurance
- Financial Management
- Labor market information
- Job search and resume preparation
- On-site employer sponsored resources
- Other community resources
- Readjustment Services
- Retraining Services

### **Services Available for the Employer:**

- Information on the WARN act
- Assistance for legal and regulatory requirements
- Assistance in developing a layoff plan

Help in establishing effective employee-employer communication  
Ideas for minimizing the emotional effects of the layoff

## STEPS YOU CAN/MUST TAKE

At the first sign of job loss, plan a budget. The following items must be considered: Cash on hand, monthly living expenses, sources of income, job search expenses.

Eliminate expenses for things you want, but do not need. Ask yourself, "Will I need this item within the next three days?" If not, this will give you three days to decide whether you need it at all. Do not take on new debts unless absolutely necessary. All family members should be made aware of the financial realities.

Short term budget reducing measures may include:

- Reduce food consumption (including eating out)
- Reduce telephone equipment and use (caller ID, long distance, call waiting)
- Purchase less expensive foods (bulk foods vs packaged or prepared food)
- Grow your own food
- Eliminate discretionary expenses

Long term measures include:

- Arrange with creditors to accept interest only payments
- Ask creditors about deferring entire payments for several weeks or months
- Utilize equal payment plans for utilities
- Lease your home to other family members while renting less costly housing
- Sell that extra car or trade in an expensive gas guzzler for a less expensive one
- Sell unnecessary personal possessions
- Do not be embarrassed to apply for assistance such as Unemployment Insurance, Food Stamps, Medicaid, SSI or Social Security assistance or weatherization.

Until you find a job consider:

- Can older children work or can an unemployed spouse work?
- Could part-time work be obtained?
- Could cash values in insurance policies be borrowed against?
- Try not to chip away at your 401K. Be sure you understand the penalties and tax consequences.
- Evaluate copy stock shares - sell? Or reinvest?
- Consult with credit counseling services.
- If you need cash, consider a home equity line of credit

## SIXTEEN RULES FOR CHOOSING WHICH DEBTS TO PAY FIRST

1. Always pay family necessities first
2. Next pay your housing related bills
3. Pay what you must to keep essential utility service
4. Pay car loans or leases next if you really need your car
5. You must pay child support debts
6. Income tax debts are a high priority
7. Loans without collateral are a low priority
8. Loans with only household goods collateral are also a low priority
9. Do not move debt up in priority because a creditor threatens suit
10. Do not pay when you have a good legal defense to repayment (i.e., goods purchased were defective or if the creditor is asking for more than it is entitled to.)
11. Court judgments move up in priority but often less than you think
12. Student loans are medium priority debts
13. Debt collection efforts should never move up a debt's priority (debt collectors do not give good advice)
14. Threats from collectors to ruin your credit record should never move up a debt's priority
15. Cosigned debts should be treated like your other debts
16. Refinancing is rarely the answer (it can be expensive and can give creditors an opportunity to seize your assets)

As you can see from the list of services WARN offers, there is an abundance of help available. These services have been paid for by you and your employer so take advantage of them.

Readjustment Services include assessment, testing and counseling, development of individual plans, job placement, relocation assistance. Also available are retraining services. These may include: classroom occupational skills, on-the-job training to qualify for jobs in demand, basic and remedial education, entrepreneurial training and instruction in literacy or English as a second language.

## JOB SEARCH/RESUMES

Before starting your job search, identify jobs that use your talents and identify the employers that can use these talents. Ask your relatives, contact your local employment center, contact employers to get company and job information. Prepare your resume and cover letters. Plan your time. Wake up each morning ready for the job of job searching. Contact employers even if they are not advertising openings and talk to the person who would be supervising you if you were hired.

When completing a job application never, never misspell words, cross out writing, leave questions unanswered or fail to complete the work history

section. Be sure to be accurate, informative and honest. Sign the application and emphasize education, training and volunteerism.

A well written resume is a must. How long has it been since you updated yours? And, don't short-change yourself. Your state's employment centers can provide assistance in preparing your resume. Companies making large layoffs can bring in the State to assist or, many times, have a contract with an outside company that provides this service. Take advantage of this.

In general a resume should include your:

**Objective:** Such as "An administrative assistant with opportunity for growth" "Entry level position in (specific area) with opportunity for growth" "A part-time position with opportunity for full time work."

**Experience or Work History:** List your jobs starting with your most recent, briefly describing the duties performed. Emphasize the duties important for the job you are applying for. Focus on your strong points.

**Education and Training:** Include degrees, scholarships and honors.

**Other Activities:** Employers want to know if you have a life outside of work.

There are also websites available to assist in resume writing.

When mailing a resume, it must be accompanied by a cover letter. Each cover letter should be specific to the job and company to which you are applying. The first paragraph should state the reason for writing, name the specific position or the type of work for which you are applying and mention how you learned of the opening. The second paragraph should explain why you are interested in working for this employer and why you are perfect for the job. Do not repeat the information on your resume. The third paragraph should indicate your resume is enclosed and your desire to meet with the employer. Communicate that you would like to set up a meeting, including a statement or question that will encourage a response. Include day and evening contact information. Include your address. Never leave it up to the employer to contact you. Set a follow up date for you to call them.

## THE INTERVIEW

Once you have been called in for an interview, be prepared. The more you know about the job and the company the better prepared you will be. Bring along extra copies of your resume. Be on time! During the interview maintain good eye contact throughout. Do not be a clock-watcher. Do not discuss illegal or discriminatory subjects. Be aware of nonverbal body language - firm handshake, straight posture, no fidgeting. Dress a step above what you would



wear on the job. Close the interview with a statement that will reiterate your best character traits. If the interviewer does not offer you the job or say when you will be notified, ask when you may call to find out about the position.

After the interview, be sure to write a thank you for the interview. Review points brought up in the interview and add ideas you forgot to mention. Mail it the same day as the interview.

Make each interview a learning experience.

As you can see, the government provides many services to assist you in your job search. While you are at the Employment Center, ask to see the Guide for Occupational Exploration and the Occupational Outlook Handbook. (These are also available at most public libraries.) These are published by the Department of labor and describe:

- Work duties for many different occupations
- Skills and abilities needed for different types of jobs
- How to enter an occupation
- Where jobs are located
- Training and qualifications needed
- Earnings, working conditions and future opportunities.

Job information Websites:

All Internet addresses begin <http://>

- Jobtrak - [www.jobtrak.com](http://www.jobtrak.com)
- The Monster Board - [www.monsterboard.com](http://www.monsterboard.com)
- Online Career Center - [www.occ.com](http://www.occ.com)
- Career Path - [www.careerpath.com](http://www.careerpath.com)
- Career Mosaic - [www.careermosaic.com](http://www.careermosaic.com)
- Headhunter - [www.headhunter.net](http://www.headhunter.net)
- America's Job Bank - [www.adb.dni.us](http://www.adb.dni.us)
- Career Builder - [www.careerbuilder.com](http://www.careerbuilder.com)
- Career Site - [www.careersite.com](http://www.careersite.com)

My thanks to the Utah Department of Workforce Services - Utah's Job Connection. They graciously provided all of the information in this article and opened my eyes to the many services available to dislocated workers.

***About the author***

*Arleen Bedingfield has worked as a loan officer for Workforce Employees Credit Union and moved to Horizon Credit Union as a collection officer to cut*

*down on commuting time. She served as Operations Manager for Chrysler Financial Corporation, retiring in 1995. Arleen has held all offices in her local association and is Past District President of District Nine. She is currently President of her local P.E.O. Chapter, Worthy Matron of her O.E.S. Chapter, serves as Corresponding Secretary and Nominating Committee Chairman for District Nine and Bulletin and Reservation Chairman for her local association. She and her husband of 45 years have two children, both of whom teach in middle schools in Utah.*

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## Professional Credit Certification

You've earned it!

There are four levels of certification, earned through a combination of work experience, education, credit and/or business related workshops and seminars, participation in CPI, and participation in providing credit education. Send in the application below with your nonrefundable \$10.00 application fee.



### CPI Certification Program Application

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

\_\_\_\_\_ My check for \$10.00 is enclosed.

\_\_\_\_\_ Please charge to my \_\_\_ MasterCard \_\_\_ Visa \_\_\_ Discover  
Credit card # \_\_\_\_\_

Exp. Date \_\_\_\_\_ Signature \_\_\_\_\_

Send application to: **Credit Professionals International**, 525-B N. Laclede Station Rd. St. Louis, MO 63119, Phone 314/961-0031, Fax 314/961-0040.

## Long Term Care and Medicaid Planning for our Seniors



*By Juliann Kocer*

As we watch ourselves, our parents, and loved ones grow older and live longer, we must plan for the financing of long term care needs. The loss of the ability to bathe, cook and clean for oneself is a life altering event, an event that should be taken seriously, keeping in mind the emotional struggles facing older Americans and their families.

The financing of nursing home care, in-home care, assisted-living care, and adult group home care is currently paid for by one of the following or a combination thereof: one's own pocketbook, a long term insurance policy, a combination of the two, or by qualifying for your state's Medicaid program.

The cost of self-paying for your own care can range from \$1,000 a month for in-home care up to \$5,000 a month for nursing home care. Since the life expectancy of men and women is increasing, it would take a substantial estate to afford an average of three years of nursing home care; and that is not even counting the cost of inflation and rising costs of health care.

Long-term care policies do help toward covering the cost of long term care needs. The policy normally offers a daily benefit rate of anywhere from \$90 to \$150, and provides coverage for the majority of one's care needs. Often, there is a waiting period of 30 to 90 days before the policy starts covering benefits. Premium amounts are based on the health condition and age at which one purchases such a policy. Newer policies offer more coverage than older policies. When shopping for a long-term care insurance policy, first consult with a qualified Elder Law attorney for recommendations of companies and coverage limits. Then read your policy carefully, understanding the coverage you are purchasing and the circumstances which trigger coverage.

Qualification for your state's federal and state funded Medicaid program is another means by which to pay the cost of your long term care needs.

Medicaid, unlike Medicare (which is a federal health care program) is a federal program designed to pay for the medical expenses of either: a) low-income individuals who are aged, blind, or disabled, or b) individuals age 65 or older who meet the income and resource tests of the program. States operate the Medicaid program and programs vary from state to state, but must be approved by the federal government.

For example, in Washington State, COPES (Community Options Program Entry System) is a federally approved program which pays for an individual's cost of care in their home, at an adult group home, or at an assisted-living facility. Payment under COPES ranges from \$1,200 to \$2,400 per month, depending on the type of care provided. To qualify for this Washington state specific program, an individual must medically need the service and be financially eligible. Similar community care programs exist in most states. Working with an Elder Law attorney to become financially eligible is strongly encouraged since the financial requirements can be cumbersome and overwhelming. Individuals with excess resources or income may not be eligible for this comprehensive program without expert legal guidance, making such consultation even more critical.

Medicaid nursing home benefits ("skilled nursing facility benefits") are available based on the same criteria, the individual medically needs the services and is financially eligible. Financial eligibility requires that you meet a two-part test. The first part is the income test and the second part is the resource test. For example, in Washington State, an applicant must have a monthly income less than the governmentally established private cost of care, plus the monthly cost of medications. A single applicant cannot have more than \$2,000 in non-exempt resources and a married applicant and his/her spouse cannot have more than \$89,280 in non-exempt resources. While these figures seem low, an Elder Law attorney skilled in this area of law knows that certain resources are excluded from this figure such as the home, an automobile, and some life insurance policies, just to name a few. In addition to excluded resources, an Elder Law attorney knowledgeable in Medicaid law can implement techniques assisting an otherwise ineligible client or couple in becoming financially eligible for these important programs. These techniques vary from state to state, and are usually extremely effective in avoiding impoverishment.

Although the discussion of long term care can be a concerning topic, seeking professional advice can alleviate many worries and provide a knowledgeable framework from which you can financially plan for your long-term care costs and eliminate unfortunate surprises.

***About the author***

*Ms. Juliann Kocer is an Estate Planning Elder Law attorney servicing clients in the states of Washington and Minnesota. She practices in the legal areas of*

*Wills, Trusts, Probate, Guardianship and Medicaid. Julie is an active member of both the Washington State Bar Association and the Minnesota State Bar Association. Ms. Kocer received her J.D. Degree from William Mitchell College of Law in St. Paul, Minnesota while simultaneously acting as a Regional Risk Manager for an HMO supervising medical malpractice lawsuits. She is a frequent speaker on estate planning and long-term care topics. Ms. Kocer is an active member of the Elder Law Section of the Washington State Bar Association, where she developed the Section's first grant program, and is also a member of the National Academy of Elder Law Attorneys.*

Please note this article is intended to be a brief general discussion of this topic and should not be considered legal advice. The law varies from state to state, and every case is different. Contact a professional specializing in this area of law should you seek additional information.

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This article was submitted by Nancy Swaffield, MCE. Nancy has been a member of CPI since 1983. She was a member of Seattle CPI and is presently a member of Everett CPI. She was Credit Professional of the Year while a member of Seattle CPI and held every office. In Everett CPI, she was Vice President and is currently an Advisor.

Nancy is a past District 10 President and was District 10 Credit Professional of the Year. She has been International Chairman for Future Planning, Legislative, Publications and Conference.

Nancy owned a collection agency in Bellevue, Washington for 27 years and is currently a sales representative for Pioneer Credit.



## Setting Up Landlord/Tenant Policies



*By Polly Lindborg, PCS*

I have had the unique pleasure of helping my parents with their duplexes since 1989. Boy, has it been an experience! Thanks to my contacts through Credit Professionals, I have done a pretty good job of screening and maintaining our tenants. I also started an office for the local Apartment Owners Association and was able to get a lot of knowledge from other landlords in the area.

I was asked to write an article on tenant collections. But first, you need to set up your tenant screening policy. If you set up screening policies in advance, you shouldn't have to do any collections. Check in your area for an Association for Landlords. This can be a very useful tool in setting up your policies and a place to call with questions regarding anything from tenants rights to what to do when a tenant defaults or how to get credit reports. The one in our area has been very useful. They, too, have regular monthly meetings with speakers just like Credit Professionals.

First, let me say this is not how everyone should set up their policies but just guidelines and examples of how I have set up my own criteria and why.

Set up your criteria and post it at the unit along with a sign stating the rent, deposit, limits on occupancy, etc. This will eliminate people who cannot meet the criteria. They simply will not call. My criteria are as follows. I update them as things occur or become relevant.

1. Completed rental application for all parties including Social Security numbers and signatures. (Make sure that you have verbiage on the application stating you are allowed to run a credit report on them.)
2. Must have good credit. (This will tell you how they pay their bills and if their debt is too high.)
3. Copies of 2 months current pay-stubs or last year's tax return if self employed, all parties. (A good rule of thumb is that their income should be at least triple the rent. Also make sure it is verifiable income, not child support or "My mom gives me \$500.00 a month.")

4. Verifiable rental history. (Do not hesitate to call for a reference. The current landlord might want to get rid of them and he might not be completely honest. The second to the last landlord will probably be more truthful.)
5. Must have worked at job at least 6 months.
6. Copies of current driver's license for all parties.
7. No pets, no recreational vehicles, limit of two cars per unit.

When they call, do a phone interview first. If you ask the right qualifying questions, you can eliminate some on the phone and avoid wasting your time running to the unit. Advise prospective tenants of your up front rent and security deposit requirements and other important facts regarding the rental that may help determine their eligibility. I ask things like:

1. Name and phone number.
2. "How many in your family?" Our units are 2 bedroom and can accommodate up to four persons. If they say there are six people, I just say the units are too small.
3. "Where do you work?" (This should give you an idea of the income, i. e., "MacDonald's," minimum wage and part time or "Boeing," full time with benefits.)
4. "How is your credit?" This is where you listen and they tell you a lot about themselves. They will usually tell you more than you want to know. If they have collections, ask them for what. If it is for utilities, I will deny on the phone because the local electric company will not hook up or the phone company will not allow them a phone. (And yes, I would like to be able to call if I need to.) If the collection is for a medical incident, then I ask what and when it happened and get a feel for what it is all about. If the collection is from Sears or JC Penney's, then I assume they got a credit card and just ran it up and didn't pay the bill. This tells me they got the merchandise but didn't pay for it. I do ask if they are paying on their collections. If they say "yes," then I will probably meet with them. If they say "no," then I will tell them we won't rent to people who don't pay their bills.
5. "What is your reason for moving?" I had one lady call me for a year and a half trying to get into our units. I finally said I was going to be brutally honest, "All I have heard you do is complain about your current landlord, from changing light-bulbs to your refrigerator not working and I will not rent to you because you will probably do the same with me." I made her cry. I felt bad but she was so critical of her current landlord.

If they stumble or cannot answer any of your questions, be leery. They are probably trying to hide something. Most prospective tenants want to make a good impression and are happy to answer your questions.

Once you are satisfied with your phone interview, then set up an appointment to meet with all of them. That way you can see the family, how they dress, the kind of car they drive, how the kids behave and how they interact with each other. Are they respectful to you? Do they criticize the unit? Remember the saying "You Never Get A Second Chance to Make a First Impression." This is where you will get your "Gut Feeling." Ask more questions. Get a feel for who they are. Explain some of your rules. I always tell them the rent is due "On or Before the first of the month." No bending. If they can't live with that then say "Thank you for your time." Remember to have your rules in advance so there is no confusion later on.

Have your applications with you or in the unit. Provide a return address label so they can use it as a mail label. Explain to them to fill it out completely, with Social Security numbers and signatures. Credit Bureaus won't run credit without it. I once had a guy that didn't want to put his Social Security number on the application because "the US government is getting way to deep into people's lives." He said he worked for the CIA and threatened me with a gun. I said, "Then you must not want to rent from us." And handed his money back and slammed the door. As soon as he was out of sight, I went and got a Post Office Box. None of my renters know where any of my family lives after that incident.

Let them know your process and how long it will take. Find someone to explain how to read a credit report to you (if you don't already know). They can be complicated but once you get the hang of it and know what to look for, it's not that bad. On the report, you will find their previous addresses and names; how much debt they have and whether they pay on time. There could be collections on it. There is usually some indication of what the collection is for: utilities, credit cards or an apartment complex with a huge dollar amount that has gone to collection. Hmm, would you rent to someone who left an apartment owing \$5,700.00?

Also, a court records search is a good idea. You can find out about drug charges, previous judgments from an eviction and domestic violence charges.

Now let's talk about the collection process:

They've been in the unit and everything seems to be going along just fine. Then one month, you haven't received the rent and it is 5 days late. Immediately fill out a "3-Day Pay or Vacate" notice. Make copies: keep one for yourself and mail one, drive to the unit and knock on the door. Present it to someone over the age of 11. If no one is home, tape it to the door. Of course, someone will call with an excuse. I have always told my tenants that, "If it looks like you're going to have trouble *Please*



communicate with me." I am a lot more flexible if they communicate with me than if I have to go down and knock on the door. If you don't have the rent by the end of the 3<sup>rd</sup> day after serving notice, be prepared to serve a "20 Day Notice to Vacate." In Washington State, this notice must be served by the 10<sup>th</sup> of the month otherwise they can stay through the end of the following month. Then you have lost 2 months worth of rent. DO NOT LET THE RENT GET BEHIND. You're just asking for trouble. Don't accept anything less than the full rent. There will always be an excuse. Be firm!

Have an attorney standing by. Timing is everything. If you haven't gotten a response or the money, contact the attorney and set the wheels in motion for eviction. The attorney will file an "Unlawful Detainer" with the court. Check with your attorney or local apartment association to see when to serve the appropriate notices in your state.

In closing, my best advice is to set your rules and regulation in advance, be cautious, pay attention to your "gut feeling" and be firm with your established policies. Trust me, there is always an excuse about something and someone who "knows" the law better than you. Please be careful and use some good old fashion "discrete" discrimination. Good luck!

#### ***About the author***

*Polly Lindborg, ACE/PCS, works in the Accounting Department for Senior Services of Snohomish County in Mukilteo, Washington, which houses 550+ low income apartment units in 13 buildings for Seniors and the disabled in Snohomish County. She has managed her parents 10+unit rental business since 1989, where she does the "rent up," painting, cleaning and evictions, if necessary. She has been a member of Everett Credit Professionals since 1995 with Perfect Attendance and has held the offices of President, Vice President and Treasurer of her local Association and is currently serving as Recording Secretary for District 10 Credit Professionals. In 1996, Polly pursued her degree in accounting and while doing that, she opened an office for Snohomish County Apartment Operators Association. There she set up the ability to run credit checks and search court records on line, published a monthly newsletter and solicited membership for the Association.*

This new CD from the Foundation has really helped me get my finances straightened out.



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This program was designed to be used in presenting credit seminars or for placement in public libraries and schools for consumer education. Tapes are \$8.00 each; CDs are \$12.00. This price includes postage. Please call the Foundation on information on volume pricing.

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Credit card # \_\_\_\_\_

Exp. Date \_\_\_\_\_ Signature \_\_\_\_\_

Send application to: **Credit Education Resources Foundation**, 525-B N. Laclede Station Rd, St. Louis, MO 63119, Phone 314/961-0031. Fax 314/961-0040.

## Gramm-Leach-Bliley Act. One Year Later



*By Brenda Lawson, PCS*

On July 1, 2001 the Gramm Leach Bliley (GLB) Act was enacted. Its primary purpose is to protect a consumer's nonpublic personal information. This information can be obtained from, but is not limited to, some of the following:

- Information a financial institution receives from an applicant on membership and loan applications or other forms;
- Information about an applicant's transactions with a financial institution, the financial institution's affiliates, or others;
- Information a financial institution receives from consumer reporting agencies;
- Information obtained when verifying the information a consumer provides on an application or other forms, such as from current or past employer(s) or from other financial institutions.

GLB facilitated an opportunity for consumers to "Opt-Out" of having their nonpublic personal information released to an entity that would sell their information for marketing purposes.

More stringent security measures are a direct result of GLB. Many institutions developed specialized training regarding the confidentiality and privacy of consumers. Physical, electronic and procedural safeguards that comply with federal regulations and leading industry practices to safeguard consumer's nonpublic information are being maintained with stringency.

Consumer reporting agencies are under the same guidelines as financial institutions. They maintain the same stringent standards and as a result, have modified several procedures to ensure the consumer's privacy.

Consumers must "Opt-out" themselves. No third party can do it for them. This has led to much frustration on the consumer's part. Many people do not want

to deal with the hassle of mailing a letter to the Direct Marketing Association (DMA). They are concerned that the DMA will not do anything with their letter(s). In an informal poll in my geographical area, it is believed that between 5%-8% of consumers have "Opted out."

One point of clarification, **nonpublic personal information is not credit information**. These are two separate types of information. Some nonpublic personal information may be included on a credit report, however. Many people have the erroneous notion that they are one and the same.

People who work in the credit industry are also frustrated. In the compiling of information for this article, I could not find two people with the same information or answers to my questions. When GLB was enacted in July of 2001, consumers were mailed a privacy notice in a separate envelope. When asked if that was needed in 2002, the consensus seems to be, as long as the notice is conspicuous, it could be mailed in a statement, etc... Some think that a consumer needs to sign something when given a copy of an institution's privacy notice, but I have not seen that in writing. There seems to be much confusion regarding the do's and don'ts. Many feel that GLB was a "knee-jerk" reaction to consumers' concerns, and needs a lot of work.

The credit reporting agencies and most financial institutions have had many security safeguards in place for years, so all that GLB did was add additional time and work to their schedules. For a few, it was the impetus they needed to get some procedures in place and operational. For consumers, it may have given them peace of mind.

For a consumer to remove their name from direct mail or telemarketing lists of members of the Direct Marketing Association, they must send a written request with their name, address and Social Security number (if it was included in the mailing they received) to the DMA. The Direct Marketing Association is responsible for notifying its members (i.e., the agencies and companies that compile marketing lists) that they want their name removed from the lists they sell. The consumer's name and address will remain in their consumer exclusion files for **five years**.

Again, consumer's must register their own name and address with these organizations because they cannot process any requests from a third party. They must be sure to include any variations of their name, address and any other information that have appeared in mailings or telephone calls they have received.

For advertising received by mail:  
Mail Preference Service  
%Direct Marketing Association  
P. O. Box 9008  
Farmingdale, NY 11735-9008

For advertising received via telephone:  
Telephone Preference Service  
%Direct Marketing Association  
P. O. Box 9014  
Farmingdale, NY 11735-9014

If a consumer would like their name taken off of all pre-approved credit solicitations, they can write to the following credit reporting agencies or call 1-888-5OPTOUT (1-888-567-8688). They should be sure to include their full name, current address, social security number and telephone number.

Experian LLC's  
Consumer Opt-Out  
901 West Bond  
Lincoln, Ne 68521

TransUnion  
Name Removal Option  
P. O. Box 97328  
Jackson, MS 39288-7328

Equifax, Inc.  
Options  
P. O. Box 740123  
Atlanta, GA 30374-0123

#### ***About the author***

*Brenda Lawson has been in credit since 1984 and has been employed by The Credit Bureau of Wichita since October of 2000. Her title is Vice President of Sales and Marketing. She covers approximately two-thirds of the state of Kansas. Her position with The Credit Bureau of Wichita is a direct result of her involvement with Credit Professionals International.*

*Brenda received her certification of Professional Credit Specialist in April of 1999. She was the Hutchinson Credit Professional of the Year, District Credit Professional of the Year and International Credit Professional of the Year for 1999/2000. She has served in all capacities at the local association level, currently as President. At the district level, she is Second Vice President. Brenda is serving on the International Advertising/Marketing Committee.*

*Brenda published an article in the September 1999 District VII newsletter titled "A Collection Perspective." She writes a monthly President's Letter in the Hutchinson CPI newsletter.*

## Skiptracing Technology for Today's Financial Marketplace



*By Patricia Bivens, PCE*

### What Is a Skip?

A skip is a person who has problems for whatever reason and does not want to be found. Keep in mind that if you are looking for a person, most likely there are other people and creditors looking for him/her also.

#### Types of Skips:

Unintentional Skip, Intentional Skip, Fraud Account

**Unintentional Skip.** This is a person who has relocated to another area for a new job, because of marriage, or because they joined the military. When you finally get this person on the telephone, they are quite surprised that you were looking for them. Most of the time the debt will be paid when you explain the situation.

**Intentional Skip.** These are professional skips. Most of the time, they borrow and buy on credit with no intention of paying the loan back or paying for what they charged. These people are very astute at hiding. It takes diligence and patience to find this type of skip.

**Fraud.** These people obtain credit in someone else's name and with someone else's social security number. You have to check for a mistake they might have made. Check and double-check anything that is on the credit application. Most of the time you will find this is a person related to the person on whom the fraud has occurred. (As with all things there are exceptions to the rule.) For example, if this happens to be a parent and child, you will find the parents will protect the child.

## Qualities of a Skiptracer

You need a good telephone voice, diligence, patience, intuition and experience.

**Diligence:** Keep a steady hand and straightforward attitude at all times.

**Persistence:** Skiptracing is like putting a puzzle together. You get one piece at a time. Then your puzzle is finally together.

**Imagination:** You will have to think like the person you are trying to find. What you are looking for is in front of your eyes. Keep your eyes and ears open. Make sure you keep an open mind while you are skiptracing.

## Tools of Skiptracing

First you have your credit application, credit bureaus, telephone books, cross reference directories, CD roms, and Internet. There are paid companies on line that have very good information. There is also networking with other creditors, such as banks, finance companies, credit unions, furniture stores, etc.

## Skiptracing Tips--Useful Information

Have you noticed when you call Pizza Hut delivery or Domino's, they ask for your phone number? Give them the phone number of the person you are looking for. Keep your pen handy. When they come back with the name or address, you will have the information you need.

**Merchant Seaman's.** Call 301-899-0675 to locate any person in the Merchant Marine. When you call this number, you need the person's Social Security number. They will provide you with the person's address and where he is currently working. They also have the seaman's home address and home telephone number.

**Metro-Net-Marc Info Services.** Call 610-834-8585 and ask for John. This is an online service for checking any address in the United States and telephone numbers for an address. This will also give you a forwarding address if the person you are looking for has left a forwarding address.

**Autotrax.** Phone 800-279-7710. This is an online service that gives information on whoever you are seeking, such as relatives, and up to 10 years of old addresses. This is an extremely good tool for skiptracing.

**Locate Plus.** [www.locateplus.com](http://www.locateplus.com) You can order Department of Motor Vehicle tapes, voter lists, and marriage license lists on CD-ROM from this site.

**Persons in Jail.** Call 800-467-4943. If a person is in jail, by Social Security number, they can tell you their location and their mailing address.

**Courts.** Online, go to <http://uscourts.gov/>. You will be referred to Pacer, which is an online company. You can look at court records online by state, city or county. There is an online charge but this is cost effective. If you print out any document, the charge is seven cents per page.

**E-Mail** When you e-mail a military person, if they are aboard a ship, the address is as follows:

Navy: [biven@enterprise.navy.mil](mailto:biven@enterprise.navy.mil) (sample whatever ship)

Marine: [bivenspj@usa.usmc.mil](mailto:bivenspj@usa.usmc.mil)

Army: [bivenspj@usa.army.mil](mailto:bivenspj@usa.army.mil)

Air Force: [pat.bivens@langley.af.mil](mailto:pat.bivens@langley.af.mil) (you have to know the base)

To locate a person in the military if they have left their last duty station:

Navy: 216-522-5637 This is in Cleveland, Ohio. You will have to have the service member's Social Security number and full name.

Marine: 703-784-3941 This is Quantico, Virginia. You will have to have the service member's Social Security number and full name.

Army: 254-287-2137 This is Fort Hood, Killeen, Texas. You will have to have the service member's Social Security number and full name.

Air Force: 512-652-5774 HQ AFMPC/DPM DOO3. This is a recording. Just follow the instructions.

#### ***About the author***

*Patricia Bivens, PCE, is corporate vice president of Summs Skip and Collection Service, Inc., a post she has held since 1965. Summs is one of the oldest and largest repossession agencies in the United States that is family owned and operated. It was founded in 1932. Patricia has been a member of CPI for 20 years, has served all offices of the local Norfolk CPI and Virginia State CPI, and is currently serving as District XII President. Prior to working for Summs, Patricia was in the United States Navy and was honorably discharged in 1965. Patricia is a Vietnam era veteran.*



## Ten Commandments for Customer Service Representatives



*By Marlene Wilcox, CCCE*

No matter what your title, if you talk to customers, you are a Customer Service Representative. Whether employed in a retail store, a mortuary, a bank, a florist, an insurance company, a utility, or whatever, you're a Customer Service Rep when you answer customers' questions, talk on the phone, wait on them at a counter, direct them to the appropriate party, accept their payments, fulfill their needs. In that capacity you are the most important person in your company. And that carries many responsibilities and commandments.

**Commandment # 1:** *Thou shalt be polite, business-like and friendly.* Recognize the customer's presence. Smile a lot, including right before you answer a phone. Use the customer's name but be aware that many mature customers prefer to be addressed by their last name rather than first. If you have to say no to a customer's request, do it gently and give the customer their options.

**Commandment #2:** *Thou shalt present a professional image.* Get enough sleep the night before work. Dress properly. Avoid eating, gum-chewing and use of slang with a customer. The customer's impression of the integrity of the company relies on their first impression of you.

**Commandment #3:** *Thou shalt know your stuff.* Whether a customer is buying a product or a service, they want someone who knows what that product or service is all about, what it does and doesn't do, what will and won't happen when they get the product or service. If you don't know the answer to a customer's question, don't bluff. Ask someone who knows.

**Commandment #4:** *Thou shalt promise only what you are 99% sure you can deliver.* "Your payment will be posted in time to avoid a late fee." Are you absolutely sure? If not, check before you say it. If you're not the person who can solve the problem, find the person who can. When you make a promise, follow through to ensure it happens.

**Commandment #5:** *Thou shalt give the customer your undivided attention.* The customer is primary. The customer signs your paycheck. You cannot be thinking of other things or doing two things at once when helping a customer is one of them. Satisfying their needs is the goal. At that moment, nothing else matters.

**Commandment #6:** *Thou shalt avoid industry jargon and "talking down to the customer."* Be patient. The customer is trying to understand you and using jargon doesn't achieve anything or move the two of you forward. Making the customer feel dumb doesn't either.

**Commandment #7:** *Thou shalt let the customer rant and rave, but don't take it personally.* The customer who is angry, frustrated and upset is not upset with you, just the situation. Let them vent, be emotional and yell. Don't interrupt; stay calm and composed. It often helps to lower your voice; thus, the customer has to lower their voice to hear you.

**Commandment #8:** *Thou shalt train yourself.* Learn all you possibly can about your job and the company. Learn something every day. Ask lots of questions. Learn how your operation fits in with others. Talk to employees in other sections. Find out what comes before the product or service comes to you and what happens after it leaves your area. Take a night school class. Join a professional organization. Get ready for your next career step.

**Commandment #9:** *Thou shalt remember that the customer at 4:30 pm deserves as much courtesy and service as the one at 8:30 am.* Forget that you have answered 50 phone calls that day and 20 were difficult. The 4:30 pm call is the first call of the day for that customer.

**Commandment #10:** *Thou shalt be an entrepreneur.* Think of your area as your own business. What would you do to improve it? Is what you're doing right now adding to the profit or the loss of your business? What is the long-term profit and loss picture? How much does an unhappy customer cost you?

In addition to the above 10, here are three for supervisors of reps.

**Commandment #11:** *Thou shalt train, train, train.* Encourage questions. Take a few minutes each day with each employee to teach some part of the operation. Schedule one or two training sessions each week with a small group. Assign a one- or two-year employee to develop a lesson plan for the next session. A good way to learn something is to have to teach it. Crosstrain on a regular schedule.

**Commandment #12:** *Thou shalt keep employees informed of what is going on in the company.* This is a great motivator as people like to be "in the know." You also arm them with enough information to answer customers' questions. If

the news is not good — profits are down, lay-offs are imminent — employees may devise ways to increase profit or come up with good ideas to turn the tide.

**Commandment #13:** *Thou shalt support employees' efforts to improve operations or themselves.* Invite suggestions. Give them ideas on developing themselves. Provide learning opportunities. Find a place in the budget for their attendance at professional organizations, seminars or conferences.

And, finally, for reps and supervisors:

**Commandment # 14:** *Thou shalt believe in your company and your boss.* If you can't, quit. You're not doing yourself or them any good.

***About the author***

*Marlene Wilcox has worked in the credit industry all her professional life with the last 12 years of her career as a training supervisor for customer service and credit and collection reps. The fields in which she worked include retail, wholesale, banking and utilities. She owns Training With Marlene, contracting for speaking and teaching assignments. She has 26 years of perfect attendance at Anchorage CPI, has held all local and District 10 offices and is now serving as 1st Vice President on the International Board. In addition to Credit Professionals, Marlene enjoys reading, traveling and singing and touring with the Anchorage Concert Chorus. She is one of only two singers out of 160 Chorus members who have sung on every tour since the Chorus began touring in 1979.*



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## Budgeting for a Family



By Clarice Swayne

Many people shy away from budgeting, thinking it is some big monster waiting to swoop down and suddenly take their check writing privileges away and force them to wear a sweater with a big bold BF (Budgeting Failure) embroidered across their chests. Not so! Budgeting is nothing more than a spending plan uniquely tailored to meet our family's needs for today and tomorrows. It is flexible and can be altered as needs and those ubiquitous little surprises come upon us.

In this chapter, we will look at setting up a budget, including setting goals and how to adjust it all to meet your plans. So here we go.

We will address these three areas:

1. Long Range Goals (six months away or longer)
2. Reality Check (what do I need to live on now)
3. How to adjust the goals and living expenses so that my family will be comfortable.

### LONG RANGE GOALS

I suggest the whole family get involved in this step. It is very important that everyone know and face the financial situation. If your children are under the age of five years or have no concept of time, they should not be involved in this step. Although learning the concept that a person should save for future needs is best learned while young, starting too young is pointless. It has been my experience that we older ones don't change our spending habits very easily.

Step 1. All family members submit a list of their future wants with approximate date they would like to see them accomplished. Each should realize this is a first draft and that the list and dates may be altered considerably before you get to a final draft but it will give you something with which to work. A list might look like the following:

Desires	Dated wanted
Savings equal to 6 months wages for emergency	12/31/10
Vacation to Disneyland	8/15/03
Debt free	12/31/03
New Car	12/25/04
Latest Dell computer	8/1/02
College Tuition	8/12/12
A new puppy	4/19/03
CPI dues	9/1/03
Christmas	10/30/03
Various Gifts:	
Grandma's B'day	11/21/02
Susie Q's B'day	9/18/03
Etc.	

Step 2. Put an amount or estimated cost for each item.

Step 3. Figure out how many months you have between when you start your budget and when you would like to see it happen. Divide the cost by the months you have to accumulate the funds, and you will have the amount you need to set aside monthly.

Lets take a look at an abridged list and see how this is done.

GOAL	DATE	COST	TIME	MONTHLY SAVINGS
Disneyland	8/15/03	\$2,500	11 months	\$227.27 (\$2500/11)
CPI dues	8/15/03	100	11 "	9.09
New Car	12/25/04	20,000	27 "	740.74

TOTAL to SAVE monthly to meet budget \$977.10

After you have all your figures calculated (I hope you did it in pencil). Set it aside and move on to the second part of our budgeting project which is our reality check.

## REALITY CHECK

In this section, we will write down the actual monthly income and realistic needed expenses.

### Income:

This amount is based on the lowest normal income. We can't count on bonuses, hoped for raises, a great sales commission. Those type of blessings cannot be depended upon for budget purposes.

### Expenses:

**Fixed Monthly Expenses** paid by check or automatic withdrawal such as.

Insurance: Car, Mortgage, Health, Dental, Vision, Home Owners, Etc. (List each one separately)	\$XXX.XX
Mortgage or Rent	XXX.XX
Water/Trash	
Car Payment	
Cable TV	
Internet Provider	
Etc.	

**Variable Expenses:** (Budget on the highest billing of the year)

Power/Electricity
Gas/Heating
Phone
Parking/Bus fare
Gas/Oil
Debts such as Credit Cards, and Loans (Some of these might be "fixed expenses". If they are put them in the fixed expenses category.)

**Miscellaneous Expenses** ( These are necessary but can fluctuate greatly month by month)

Groceries
Entertainment
Eating Out
Beauty/Barber Shops
Clothing

Personalize this list by adding or subtracting to reflect your present budget. Put a dollar figure beside the items listed in your expense category and add them to get a total dollar amount of what you are spending now.

### ADJUSTMENTS:

Now you look at your income and subtract your normal expenses from your Reality Check List. What is left over is what you have to meet the Goals list you and your family first compiled.

Income	SXXXX.XX
Normal Expenses -	<u>XXXX.XX</u>
Available for Goals	XXX.XX

If it doesn't look like you can accomplish what you set out to do originally, now is the time to adjust. This can be done several ways.

1. Look for a vacation spot the family can enjoy that is not as expensive. Or put the vacation off another year or two.
2. Does the car have to be brand new? Would a returned/leased car that is one year old do as well? Or a different brand? Is the time of year the best for a good buy?
3. Can the grocery bill be cut by buying fewer brand names and purchasing the generic or store brands?
4. Eating out can really eat up a paycheck. Is it possible to brown bag it more often?
5. Do you really need all the magazines that come into your home?
6. Etc., etc., etc.

In other words, take a good, long look at how you spend your money and, as a family, make some decisions as to what each person can do so that you can live within your means and still reach for the goals of all members.

After all the adjustments have been made, you should have a firm grip on what you have to live on and how much you can save towards your family's goals. Put into a savings account, MONTHLY, the dollar amount set aside for goals. Do this first!! It's that old principle—"Pay yourself first."

Once this is done and everyone understands what is going to happen, set up a notebook with a page for each goal and record the amount deposited into that goal. I have found that people, especially children, like to see how much they have earned toward the goal they have set. The hard work is done. Now you and your family have, in black and white, your personal family budget or spending plan.

The benefits you will find will be many. A few I have seen are named below.

1. You are freed from getting into future debts
2. Family involvement made the children aware money doesn't grow on trees.

3. The money handler doesn't have to bear all the burden of decision making.
4. You have easy to make adjustments, and know where to make them.
5. "Seems I have more spending money for the extras that pop up."

You too will find your own benefits from the knowledge gained of exactly how you are spending (or saving) your valuable finances.

***About the author***

*Clarice Swayne is a retired banker who saw a great need for someone to become a household bookkeeper for those who are having trouble handling their finances. She established her business "Sadie's Down-home Budget Counseling" and has kept busy helping the elderly, blind, or needy in other areas of their lives. Clarice travels extensively to homes to establish budgets for families and businesses. She loves every minute of it because she meets so many people and is able to be of service.*

*Clarice has a wonderful husband who understands her need to be of service. Her three children are grown, and she is a proud grandparent of four, with the pictures to prove it.*

*Clarice is active in Toastmasters International, and her church, and, when time permits, quilting and reading, and of course Skagit Valley CPI of which she has been a member since 1978.*

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## Protecting The Creditors' Position in Bankruptcy



*By Barbara Franklin<sup>1</sup>  
Assistant United States Trustee  
Anchorage, Alaska*

Acquainting those who have an interest in the bankruptcy process as an existing or potential creditor with the fundamental knowledge of how their claim can be protected also necessitates some knowledge of the interrelationship of the various facets of the Bankruptcy Code.<sup>2</sup> This basic understanding of the Chapter 7 liquidation process is helpful to anyone interested in expanding their skills as an accomplished credit professional.

Title 11 of the United States Code refers to the statutes that are collectively known as the Bankruptcy Code, which superseded the Bankruptcy Act of 1898. The Bankruptcy Code was enacted by Public Law 95-598 and all bankruptcy cases filed after September 30, 1979 are governed by the Code.<sup>3</sup> There are eight chapters in the Code. The three discussed in this article are Chapter 7, known as a straight liquidation, Chapter 11, the business reorganization chapter, and 13, for the adjustment of debts for an individual with regular income. Other chapters deal with case management and administration as well as bankruptcy relief for certain debtors, such as Family Farmers.

To take advantage of the protection offered by the Bankruptcy Code, a person faced with financial difficulties can file a voluntary bankruptcy petition in a Federal bankruptcy court, typically where the individual resides or the business is located. The debtor has certain obligations to fulfill if they want to obtain relief from debt and get a "fresh start," including filing a list of creditors, a set of schedules and statements containing financial information, attending a meeting of creditors, and, if a trustee is serving in a case, cooperating with the trustee, and surrendering property and recorded information to the trustee. In return, the debtor or business entity may be

relieved of certain debts or obtain court approval of a plan to repay all or a portion of the debts owed creditors over time.

Creditors may also petition the bankruptcy court to hold a trial to determine whether a bankruptcy case should be commenced. An involuntary bankruptcy case is commenced when at least three creditors to whom the debtor owes debts that reach the statutory amount meet certain conditions imposed under Title 11. Involuntary petitions may be filed against an individual or for-profit debtor under chapters 7 and 11, but not chapters 9 (municipalities), 12 (Family Farmers) or 13. If the debtor does not contest the petition or if the court finds that certain legal standards have been met (e.g., the debtor is not paying debts as they become due), then the court will enter an order for relief.

This article will address the more general questions of how a creditor can preserve and perfect a claim in a chapter 7 bankruptcy case. While the other chapters, such as 11 (the business reorganization chapter) and 13 (adjustment of debts for an individual with regular income), have similar mechanisms for creditors (e.g., proofs of claim and meetings of creditors), the trustee's role in a chapter 7 case marks a departure from the central feature of both chapter 11 and 13 where the debtor, with some exceptions, remains in possession of their assets. Where there are differences between the more routine creditor actions in the three main chapters: Chapter 7, Chapter 11 and Chapter 13, a brief explanation will be provided. By tracking the flow of a chapter 7 liquidation, the reader will gain an understanding of basic bankruptcy concepts and an appreciation for the task that chapter 7 trustees undertake. The media abounds with news and discussions about the high-profile Chapter 11 bankruptcy cases, such as Enron and Kmart. The more routine chapter 7 liquidations may be simple or complex depending on the intricacies of the debtor's financial transactions.

Typically, chapter 7 cases comprise about 70 percent of all national filings, with almost 30 percent filed as Chapter 13s and less than 1 percent filed as Chapter 11s. Of the 70 percent chapter 7 cases, more than 95 percent are closed without liquidating assets, commonly called no-asset cases. About five percent of the Chapter 7 cases are asset cases. Individuals, corporations, limited liability companies, and partnerships may file a voluntary Chapter 7. A married couple may file a joint Chapter 7 or 13 petition. In a Chapter 7 case, in return for surrendering non-exempt property to a trustee for distribution to creditors, the honest individual debtor(s) will generally receive a discharge of most of their debts. From a trustee's perspective, the goal of a Chapter 7 liquidation is to provide a meaningful distribution to creditors by expeditiously administering the bankruptcy estate's assets.

### **The Automatic Stay**

The automatic stay prohibits creditors from taking actions to collect their claims or to enforce their liens against the debtor or property of the estate. The

stay is intended to give debtors time to either prepare a plan of reorganization or for trustees to liquidate assets in order to repay or partially repay creditors in accordance with the law. In all voluntary bankruptcy cases, the automatic stay goes into effect on the date that the bankruptcy petition is filed, not when a debtor or creditor receives notice or learns of the bankruptcy. The stay bars creditor collection efforts on pre-petition claims only, meaning that the stay does not protect the debtor from debts that are incurred after the petition is filed.

The actions of certain creditors are excepted from the stay. For example, alimony and child support may be collected from the debtor's post-petition wages. Creditors may seek relief from the stay by filing a motion in the bankruptcy court. The court may terminate, modify or annul the stay if the creditor can prove that either the interests of the creditor are not being protected or that the debtor has no equity in the property and the property is not necessary for an effective reorganization. Once relief from the stay has been granted, the creditor may proceed with their remedies under applicable law.

Unless the creditor files a motion for relief, the stay remains in effect and protects property of the debtor until the property is no longer property of the estate. For example, if the Chapter 7 trustee sells real estate and the mortgage is paid, then the real estate is no longer property of the estate. The stay has been terminated on that real property. The stay of other acts against the debtor remains in effect until either the case closing, case dismissal or the discharge of the debtor, whichever occurs first.

### **Notices and Monitoring**

The initial notice (Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates [Official Form 9]), establishes several important deadlines for the case. This is undoubtedly the most important notice for creditors to retain in their files because it contains the case number, the dates for taking various actions, and the need for filing a proof of claim. In most chapter 7 cases, the initial notice, which gives the date of the initial meeting of creditors (also called the section 341(a) meeting), generally advises unsecured creditors not to file proofs of claims because an initial determination has been made that there are no assets to distribute to creditors. This initial determination, however, may be affected by later events, such as a trustee's determination that there are assets available to benefit creditors.

Even at this stage several events can occur that will affect the creditors' ability to collect the debt either from the bankruptcy estate or the property of the debtor. The major events that creditors will receive notice of are: dismissal, conversion of a chapter 7 case to another chapter, a determination

of whether the debtor receives or does not receive a discharge of their debts, and events triggered by the trustee's administration and distribution of funds of the bankruptcy estate.

A bankruptcy case may be dismissed if the debtor fails to timely file the schedules of assets and liabilities (Schedules A-J), the Statement of Financial Affairs, or fails to attend the meeting of creditors. The bankruptcy judge may also find, after notice and a hearing, that other grounds to dismiss the case are warranted. An order dismissing the case will be mailed to creditors. If the case is dismissed creditors may be able to continue collection efforts as if the bankruptcy petition had not been filed.

At the other end of the spectrum, the debtor may receive a discharge of all pre-petition debt, in which case pre-petition debts may not be collected from the debtor. Creditors may object to the discharge or to the dischargeability of a particular debt, provided that a complaint initiating an adversary proceeding is filed within the time period stated in the initial notice. If, after 60 days after the first meeting of creditors, the court determines that the debtor is entitled to a discharge and no objections to the debtor's discharge are pending, a notice of discharge is mailed to all creditors. The entry of the discharge creates a permanent injunction against collecting the pre-petition debt owed by the debtor. The entry of an order denying dischargeability of a particular debt will also allow the affected creditor to pursue collection; an order denying discharge allows all pre-petition creditors to pursue collection.

Conversion of a chapter 7 case to a chapter 11 or a chapter 13 may result in the debtor reorganizing their finances and paying creditors over time. Conversion of the case usually continues the automatic stay and creditors may not attempt to collect the pre-petition debt. Notice of the conversion to a particular chapter will be mailed to creditors and interested parties and new deadlines will be established for debtor compliance and creditor action.

Most bankruptcy courts are implementing web-based programs for filing and obtaining current information about bankruptcy cases. Access to the program requires pre-registration and obtaining a user name and password. Consult your local bankruptcy clerk of the court or go to <http://pacer.psc.uscourts.gov> for on-line registration. This program will make up-to-date information readily accessible to credit and collection professionals. Other on-line resources are available through your local bankruptcy court's web site, the United States Trustee Program at <http://www.usdoj.gov/ust/>, and [www.abiworld.org](http://www.abiworld.org), the American Bankruptcy Institute's web site.

### **Attending the meeting of creditors**

Within 20 to 40 days (60 days where the meeting site is not regularly staffed by the United States Trustee) after the bankruptcy case is filed, the first

meeting of creditors is held.<sup>4</sup> The purpose of the meeting is to examine the debtor or the debtor's representative under oath regarding the financial affairs of the debtor. If a creditor has questions about the amount of the claims or is seeking other facts that affect the decision to pursue other bankruptcy remedies to secure the creditor's position, attending the meeting of creditors is a must. In many jurisdictions, creditor is not required to be represented by an attorney. The meeting is conducted by the United States Trustee's staff member in a chapter 11 case. In the case of chapter 7, normally the United States Trustee has designated the panel trustee appointed to the case to conduct the initial meeting, and in chapter 13 cases the standing chapter 13 trustee will fulfill that role. The bankruptcy judge is prohibited from presiding or attending the meeting. At the first meeting, creditors may, under certain circumstances, elect a trustee in a chapter 7 case, however, if no election takes place, the interim trustee continues to control the bankruptcy estate.

During the meeting creditors may ask questions of the debtor and request documents relating to their claim. Creditors are in the unique position of having dealt with the debtor previously. While the meeting is often times the first time the trustee has the opportunity to question the debtor, the questions raised by creditors about the debtors' financial affairs may provide the trustee with insight into areas that may result in further investigation. Creditors may inquire about the basis for their claim or about facts affecting the dischargeability of the debt owed by the debtor. The meeting may be continued to a later date or concluded without additional noticing to parties that are not in attendance. The United States Trustee's office maintains audio tapes of the meetings and can arrange for a copy or a transcript of any meeting.

### **Reaffirmation and Redemption**

The debtor may intend to surrender, reaffirm or redeem property on which there is a consumer debt secured by property of the estate that the debtor is claiming exempt. Thirty days after the petition is filed, a chapter 7 debtor is required to file the Statement of Intentions, which is mailed to creditors holding the secured claims. The options are (1) to surrender the property or (2) retain the property and either reaffirm the debt or redeem the property.

Redemption allows the debtor to pay the lienholder the amount of the allowed secured claim either the actual value of the collateral or the amount owed, whichever is less. The debtor has 45 days to perform their intention.

When a debt is reaffirmed, the debtor agrees that a pre-petition obligation will continue to be enforceable after discharge is entered. Because the debtor is giving up the right to discharge the unsecured debt or the opportunity to redeem the property, and because overreaching creditors may take advantage of the debtor, the bankruptcy court follows specific statutory procedures to assure that the debtor is making a voluntary choice. See, 11 U.S.C. § 524.

Unless the timing and the procedures are followed punctiliously, a creditor risks not only violating the statutory permanent injunction that prevents collecting the debt after discharge, but may run the risk of more stringent sanctions.

The automatic stay prevents a creditor from contacting the debtor to collect a debt, however, the creditor may appear at the meeting of creditors and begin the process of determining whether reaffirmation is possible. Any reaffirmation agreements must be in writing and filed with the court before the discharge is entered. If the debtor is not represented by counsel in making the reaffirmation agreement, the debtor must appear in person at a hearing during which the court will inform the debtors of their rights and make a determination whether to approve the reaffirmation. The debtor can rescind the agreement 60 days from the filing of the agreement or the date of discharge, whichever is later.

The discharge generally relieves the debtor from any further legal obligation to pay most pre-petition debts. The law, however, does not prevent a debtor from voluntarily repaying any creditors. Voluntary payment does not reinstate the debt as a legal obligation. The debtor can choose to make or not make the payment without risk. In many jurisdictions, voluntary payments under the original contract allow the debtor to keep the collateral without entering into a reaffirmation agreement. Post-discharge default in payments will allow a secured creditor to foreclose on the collateral, but prevents obtaining any deficiency.

### **Third-party criminal referrals**

Because of the creditor's unique position of knowledge regarding the debtors' financial history, creditors may know whether all assets belonging to the debtor have been disclosed. Failure to disclose assets or sources of income are common bankruptcy crimes. The debtor's conduct may also be the basis to file a complaint objecting to the discharge. Creditors are encouraged to immediately notify the trustee and the United States Trustee about possible bankruptcy fraud. The United States Trustee may refer an individual's actions in a bankruptcy case to the U.S. Attorney's Office for prosecution of possible bankruptcy crimes, including failing to disclose assets, using a false social security number, and lying under oath about their financial affairs.

### **Asset or No Asset Case Determined**

The trustee independently examines the documents submitted by the debtor to determine whether the case is an asset or no asset case, regardless of what designation may be placed on the case by others. In a no asset case, there is insufficient money, tangible or intangible properties, legal or equitable causes of action or other assets belonging to the bankruptcy estate that are not exempt or encumbered that can be liquidated to create a meaningful distribution to

creditors. Unless the trustee is conducting an investigation, the trustee will ordinarily make this decision within 60 days after the first meeting of creditors.

Under the law, the debtor does not necessarily surrender all of their assets. The debtor is allowed to exempt certain property under state or Federal law. Exemptions only protect the debtor's equity in property and do not affect security interests, unless legal action is taken to avoid a lien or to determine the validity, priority or extent of a lien. Usually the debtor will claim exemptions for the debtor's home, a vehicle, household goods, tools of a trade, and other exemptions allowed under applicable law, which are designed to provide the individual debtor with a "fresh start." Fully exempt property (i.e., the debtor's equity) is not sold to repay debts. Generally, in an asset case the proceeds from the sale of bankruptcy estate property exceeds the value of secured claims and the debtor's allowed exemptions. After payment of liens and returning any portion of the funds attributed to the debtor's exempt property, the remaining proceeds are distributed to creditors according to the priority set for in the Code.

Frequently debtors make payments or attempt to transfer property shortly before filing bankruptcy. These payments and transfers generally fall into one of four categories: (1) normal payments; (2) payments made to try keep creditors' calm and thus avoid bankruptcy; (3) payments or transfers of property to "favored" creditors; or (4) attempts to keep property away from creditors by transferring it to relatives. A fundamental precept of bankruptcy law is that all creditors, unless the Bankruptcy Code otherwise specifically provides, share equally in the "pie." Consequently, to protect these rights, the Bankruptcy Code contains specific provisions permitting the trustee to avoid certain pre-petition payments or transfers and recover the transferred property for the estate. Action to avoid such transactions must be commenced within two years of the date the petition is filed or before the case is closed, whichever is earlier.

Where a transfer is avoided, the affected creditor must return the money or property transferred to the trustee. This usually results in an increase in the claim of that creditor by the amount of the value of the recovered property. For example, an unsecured creditor is owed \$4,000 on the date the petition is filed but received a voidable preferential payment of \$1,000 within 90 days of the filing of the petition. The creditor must surrender the \$1,000 to the trustee, but the creditor's claim is increased to \$4,000. Fraudulent transfers by the debtor may result in denial of the debtor's discharge as well as possible recovery by the trustee for the benefit of the estate.

The trustee may abandon estate property that is burdensome to, or of inconsequential value and benefit to, the bankruptcy estate. Abandoning property during the case requires notice and a hearing and a motion may be made by the trustee or any party in interest, including the debtor. Property that

is scheduled by the debtor and is property of the estate is deemed abandoned at the closing of a case. Conversely, property that would be property of the estate that was not scheduled is not abandoned and the trustee can reopen the case and administer such property. The debtor may have intentionally or mistakenly failed to list the property, yet the bankruptcy estate's interest continues, in theory, for all time.

### **Identifying the Pre-Petition Debt.**

A creditor is an "entity that has a claim against the debtor that arose at the time of or before the order for relief" 11 U.S.C. § 101(10). The claims of creditors generally fall into three categories: secured, priority or unsecured. The goal of every creditor is to maximize the amount of money received in payment of a claim, however, the Bankruptcy Code contains specific guidelines relating to which claims have priority and, thus, get paid from funds available to the bankruptcy estate.

A secured creditor is a lien holder, *i.e.*, a "charge against or interest in property to secure payment of a debt or performance of an obligation," 11 U.S.C. § 101(37). A creditor is secured to the extent of the value of the creditor's legal interest in the property that is collateral for the debt, and unsecured to the extent that the obligation exceeds that value. 11 U.S.C. § 506(a). A lien may be consensual, statutory, or judicial. The means for creating liens are varied and the various liens are treated differently under the Bankruptcy Code. The secured creditor's position is best protected before the petition is filed. If not recently reviewed, a secured creditor should undertake a comprehensive review of the file at the first hint that the debtor may be having financial trouble.

In general, unless an adversary proceeding is brought to determine the validity, priority or extent of a lien, a lien against the debtor's property will survive the bankruptcy. Creditors with secured claims focus on the protection or recovery of their collateral. Secured claims may be satisfied through the sale of the secured assets. Another type of secured claim is when the creditor has the right to set off against the estate property. A set off is the right of any person or entity to reduce the amount of his/her debt to another by any sum the person owes to him/her. For example, a bank that has loaned a debtor money may be able to set off the amount of its claim against the amount of money the debtor has on hand in a bank account at the same bank. The creation of security interests and the treatment of liens in bankruptcy require an analysis that is beyond the scope of this article. The distinction between the types of claims is important, however, to understand the hierarchy of payment afforded to claims when distributions are made to creditors from a bankruptcy estate.

There are two types of unsecured claims: priority and general unsecured. Unlike secured claims, unsecured claims are not guaranteed by property or other assets. The Bankruptcy Code affords certain creditors a priority status



that allows them to be paid ahead of other general unsecured creditors. Some examples of priority claims include the fees and expenses involved in administering the bankruptcy estate (e.g., trustee's fees, compensation to the professional hired by the trustee), a limited amount of wages, salaries and commissions owed to employees, a limited amount of contributions to employee benefit plans of the debtor, a limited amount for grain farmers and fisherman who sold grain to a facility or to a fish processor, a limited amount for deposits made by *individuals* for the purchase, lease or rent of property (commonly called consumer deposits), alimony, spousal and child support or maintenance, and certain Federal and state taxes. These claims are paid in accordance with the priority order found in section 507 of the Code.

At the lowest priority are the general unsecured claims. Creditors holding claims that fall into the general unsecured category of claims are vendors, open accounts, suppliers, services, utilities. Other merchants who supply goods or services, but who did not obtain a security interest in the property that the debtor bought or holds will have an unsecured interest in a bankruptcy estate.

Once secured and priority claims are satisfied, the remaining funds, if any, are distributed pro rata among general unsecured creditors who hold allowed claims based on the amount of their claim. Occasionally all claims will be paid in full and, even more rarely, be paid interest on the claim from the date of filing at the Federal post-judgment rate (the T-bill rate). Any remaining funds are returned to the debtor. When a pro rata distribution is made from a bankruptcy estate, any unpaid balance remaining is unsatisfied, and, unless the debtor's discharge has been denied, cannot be collected from the debtor. There are as many variations in the distribution scheme as there are bankruptcy cases and disputes often arise when the goals of secured creditors conflict with the goals of priority claimants and unsecured creditors.

### **The Proof of Claim**

One of the first things the holder of a claim should do is file a proof of claim. A secured claimant may be paid because the lien survives the bankruptcy, however, except in a chapter 11 case, the filing of a proof of claim is absolutely essential to preserving the right of the holder to participate in any dividend distribution from the bankruptcy estate—no claim, no payment (FRBP 3002). In a chapter 11 case, if the debtor schedules the creditor's claim as unliquidated, contingent or disputed, the creditor must file a claim, otherwise the claim is deemed allowed in the scheduled amount. If a chapter 11 is converted to chapter 7, as a remedy for a failed reorganization, a proof of claim must be filed in the converted case. As a practical matter in most cases, to save a trip to the bankruptcy court to determine how the debtor scheduled the claim and in what amount and to preserve the claim without tracking the progress of the case, most creditors are well advised to automatically file a

proof of claim immediately upon receiving a notice of the filing. There are exceptions to that recommendation based on considerations involving such legal concepts as jurisdiction and sovereign immunity.

When should a Proof of Claim be filed? In cases filed under Chapters 7, 12 and 13, the proof of claim must be filed within 90 days of the date of initial meeting of creditors. The bankruptcy court notice will contain the date, or in a Chapter 11 case, there may be a separate notice of the claims bar date. If the claim arises out of the rejection of an executory contract or unexpired lease, the claim must be filed within 30 days of the rejection. Claims must be actually received by the Clerk for filing by the applicable bar date or risk being objected to. Only in unusual or exceptional circumstances will a tardy or late-filed claim be paid.

A creditor filing a proof of claim should use the official form (OF- 10) provided for that purpose. The official forms are available at most stationery stores carrying legal forms or are available from the clerk of the court. The form also contains detailed instructions on how to fill the form out. Some courts will provide a copy of the proof of claim form with the notice sent to creditors of the creditors' meeting. In preparing the proof of claim, care should be taken to ensure that the amount of the claim, as of the date of the filing of the petition, is accurate. A creditor will report the total amount of the claim in item 4 of OF- 10, and will report only that amount unless the claim is secured by collateral or entitled to a priority under section 507 of the Code. In other words, by reporting the amount only in item 4, it is presumed that the holder has a general unsecured claim. In addition, any backup documents, e.g., billing, promissory notes, security agreements, evidence of perfection, guarantee, contract or judgment, that establish the claim and its status should be attached. The proof of claim, including the backup documents, is filed in duplicate and a complete copy served on the trustee (if one is serving) and the debtor or his/her/its attorney.

### **Objections to Claims**

Any interested party, e.g., creditors, trustee, debtor, may object to a proof of claim filed by any creditor. Normally, however, objections to claims are filed in chapter 7 cases by the trustee after the claims bar date is passed and a distribution is certain to be made. An objection to a claim must be in writing and filed with the bankruptcy court. A copy of the objection, together with a notice of the time and date for the hearing must be served on the claimant at least 30 days before the scheduled hearing date.

Perhaps the most common objection is that insufficient information or documentation has been submitted and, thus, the validity of the claim cannot be determined. This objection could be prevented by attaching the documents to evidence the amount and validity of the claim. Another common objection is

that the claim includes unmatured interest or other postpetition charges that have accrued after the date of the filing of the petition, but before the Proof of Claim was prepared. Only an oversecured creditor is entitled to recover postpetition interest, charges, and if the contract so provides, reasonable attorney's fees, up to the value of the collateral. It is not unusual for a claim to be challenged because it is asserted against a corporate officer or director for a corporate, not a personal obligation. In the absence of a personal guaranty, unless the creditor can establish the existence of the elements to "pierce the corporate veil" under state law, such a claim is almost unquestionably destined to be disallowed.

### **Other Actions**

Creditors in all cases should retain records and advise the court of any address changes until a notice has been received that the case is closed. Because distribution in an asset case may be several months (or years) after the case is commenced, prematurely disposing of the files and records related to a claim may result in not being able to defend against an objection to the claim. Failing to keep the court apprised of address changes may result in not receiving an objection to the claim or, even worse, the dividend check issued at the conclusion of the case.

In a chapter 7 case, in addition to the actions mentioned previously, there is little, if anything, for the holder of a general unsecured claim to do to protect the claimant's interest except sit back and wait for the trustee to complete administration and make a dividend distribution. Various sources of information are available to check the status of cases. Contact the trustee, the United States Trustee, the court, or an electronic database, such as the various court-maintained web sites, to verify the progress of the case. A creditor can obtain information on a potential recovery from the trustee after the liquidation is complete, debts owing the debtor have been collected, and legal actions have been concluded. The actual creditor recovery cannot be calculated until all objections to claims have been resolved and administrative expenses are known.

### **Distributions**

On rare occasions a trustee may make an interim distribution, that is, distributing funds to secured and other priority claimants. Ordinarily, the trustee will prepare a final report when all legal issues have been resolved, assets reduced to money, and an accounting completed. Interim and final reports are then reviewed by the United States Trustee's office or bankruptcy administrator.

In a Chapter 7 case, the United States Trustee reviews the trustee's proposed distribution. A notice of the trustee's final report containing a summary of

administration may be combined with other notices necessary to bring the case to conclusion. While court orders are necessary to pay the administrative claimants and resolve claim objections, it is not necessary for the general distribution of funds to creditors, unless there are other objections to the trustee's final report. Dividend checks must be negotiated within 90 days. If the distribution amounts to less than \$5.00, the trustee will send the creditor name, address and the funds to the Clerk of the Court, which are refundable upon request.

Current addresses mean faster payments! Unclaimed distributions, if any, in both Chapter 7 and 13 will be deposited with the Clerk of the Court for reclamation by the creditor. In a Chapter 13 case, distributions under the debtor's confirmed plan may stretch over three to five years, which is especially true for general unsecured creditors who may get paid last. Chapter 11 payments may also be paid over time, depending on the distribution scheme approved by the court in the plan of reorganization. These Chapter 11 payments are not subject to the small dollar amount or unclaimed funds restrictions found in other chapters and, in all likelihood, will be made after the bankruptcy court case is closed. The Chapter 11 plan of reorganization will usually give contact information for creditor inquiries and address changes.

Recommended further reading: Judy Thompson, Esq., with assistance from David B. Wheeler, Esq., and Charles M. Tatelbaum, Esq., *Bankruptcy: What Collections Professionals Need to Know* (American Bankruptcy Institute, 1996). Forty page pamphlet is available from ABI for about \$14.00 to non-members.

#### *About the author*

*Barbara L. Franklin is the Assistant United States Trustee for the District of Alaska, Office of the United States Trustee, Region 18. Ms. Franklin is a member of the Alaska Bar Association and the American Bankruptcy Institute. She has spoken at numerous Alaska Bar Association's Bankruptcy Section CLEs and other professional groups on bankruptcy practice. She has also served on the local rules subcommittee since 1990. She received her Bachelor of Arts from the University of Washington with distinction in English and her Juris Doctor from Seattle University School of Law, formerly known as University of Puget Sound School of Law.*

<sup>1</sup> The views expressed in this article are those of the author and do not necessarily represent the views of, and should not be attributed to, the United States Department of Justice or the United States Trustee Program.

<sup>2</sup> The information contained in this article is not intended to give, nor is it to be construed as giving legal, accounting or other professional advice by the author or the United States Department of Justice or the United States Trustee Program. Many creditors may have problems that may not be covered by these

materials for which specific legal advice should be obtained. Users are cautioned against relying strictly on these materials to answer questions that may arise. In no event will the author be liable for any direct, indirect or consequential damages resulting from the use of these materials.

<sup>3</sup> Several amendments have been made to the Code and additional bankruptcy reforms have been proposed. Due to the rapidly changing nature of the law and regional variations, information contained in this article may be outdated or not applicable in all cases.

<sup>4</sup> The United States Trustee Program was established by the Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.) as a pilot effort encompassing 18 districts. It was expanded to 21 Regions nationwide, covering all Federal judicial districts except Alabama and North Carolina by enactment of the Bankruptcy Judges, U.S. Trustees, & Family Farmer Bankruptcy Act of 1986.



## I joined CPI.

Now my boss thinks I'm a  
genius.

When I got my CPI education manual this fall, I was able to tell him all about Skiptracing, Landlord/Tenant Policies, Medical Collections and Protecting Claims in Bankruptcy.

Then the Credit Connection came – I filled him in on the latest legislation and how to deal with a debtor in bankruptcy.

After our last few local association meetings, I was able to give him some tips on who to contact in local law enforcement when we get bad checks and how to find the best business bank accounts.

I just hope I get to the next issue of *The Credit Professional* before he does.

He thinks I'm a genius. Thanks, CPI.

## Marketing CPI; Making It Work For You



*By Sue Cassell, PCE*

Franklin D. Roosevelt said, "It is common sense to take a method and try it; if it fails, admit it frankly and try another. But above all, try something."

At the 2000 CPI Credit Conference I had the privilege of being a part of the first group to participate in the training and marketing of the audio "Take Charge of Your Life." Not only was this a wonderful chance to learn how to market the audio training tape "Take Charge of your Life," it was a great chance to learn the Adult Learning Principles.

These techniques are handy when trying to market your local CPI association to perspective members. Ask yourself the following questions.

- **Who** do you want to target?
- **What** do you have to offer that will make them interested?
- **Why** will they want to attend?
- **When** is your meeting/seminar and how long is the program?
- **Where** will the meeting/seminar be?
- **How** will you follow up after the meeting/seminar?

Finish up with a final:

- **Who** will be responsible for the follow-up?

These questions should be asked each time that you want to open your meetings to new or perspective members.

Your first response is "I don't know where to begin" or "I don't know anyone to ask." Does either of these responses sound familiar? If your association has

not had a credit seminar, **DO IT!** Not only is it a great way to recruit, it is a fantastic budget builder. Invite as many banks, credit unions, loan companies or any business with a bookkeeper or a credit department. Don't forget medical offices. You will not want to send your invitation to the owner or president. Find out the name of the person that you want to target and address the invitation to him or her. If you have speakers on topics that are hot issues in your community, you will draw a crowd.

Great Falls CPI has had success with seminars that start around 4 pm and end at 8 pm. Keep your meeting on track and offer a light dinner halfway through. The break allows the attendees time to network with other credit professionals and provides you a time to explain CPI membership and benefits.

If you feel you won't draw a crowd by having the meeting at night, schedule it during business hours. Many times employers will allow and encourage their staff to attend educational courses during the day. You may also pick up attendees who want to attend but would not want to give up part of their evening to do so. You may want to experiment with both evening and daytime seminars. Again, ask "What works best in my community?" Try both ways, then you will know.

We also make up packets with an invitation on the front of the folder. Inside we offer a list of meeting topics, a list of local CPI members with phone numbers and a letter of introduction to the attendee's supervisor. Also included is a CPI brochure as well as a brochure we designed locally on the audio training program, *Take Charge of Your Life*. Are these all original ideas? Nope, we borrowed from other associations. Why reinvent the wheel? Any association that is actively marketing CPI membership would be more than happy to share information with you.

About one week after the seminar, send a follow up card with another invitation to our meeting and a promise to call them with topics. It may take many calls to the same person before they attend a meeting but what would happen if that person ends up being one of your most valuable members. Are you willing to let them slip by?

Even if you do not have a seminar, there are many ways to recruit new members. How many business associates do you talk to a day? Make a list and start at the top. In the 2000/2001 CPI Education Manual, Gatha Crowson wrote "*The Ultimate Recruiting Technique – The G.A.T.H.A. Principle.*" I recommend you read that article for some wonderful ideas and suggestions.

Some other tips and suggestions on marketing CPI are to:

- Market yourself.
- Market the accomplishments of your members, and
- Market the accomplishments of your association.

If one of your members receives a promotion or special recognition at work, call your paper and see if you can put a congratulatory message in the business section. Publish your meeting date and time and include a phone number. When you are providing a bio for a speech, included your involvement in CPI. List it on your resume; more than one person has received a job or promotion because they have been involved in CPI.

Have note cards printed with the CPI logo and send a personal note to colleagues who make the news. Clip the article out of the paper and enclose it—everyone likes an extra pat on the back for a job well done. These note cards also work well for thank you notes for your speakers.

With the convenience of desktop publishing, make up business cards for your officers, board members and membership. Include one in each note you send out.

Be visible—adopt a family at Christmas, collect toys for tots, be a drop-off for a winter coat program, organize a food drive. Throughout the year, our members collect sample size toiletries from their many trips. In December, we gather these samples and deliver them to the women's shelter.

Many times what stops us from increasing in size is our own attitude. We might say, "Joan Smith from Dr. Anderson's office would probably not be interested in going." Did you ask or did you make that decision for her? Take a chance. Step out and step up. You will be glad you did and so will your association. We all know that Credit Professionals International is not just a social gathering. Take stock in what it has done for you. The networking contacts I have made through CPI have made my job easier. The combined knowledge of this association is invaluable.

The main thing is DON'T BE AFRAID TO TRY SOMETHING. *"The secret of success is constancy of purpose."* (B. Disraeli)

Have fun, enjoy the success of CPI and share your enthusiasm with your friends, family, and business colleagues. You will be glad you did. And if you are marketing successfully, they will be glad you did too!

#### ***About the author***

*Sue Cassell, PCE, has been a member of the Great Falls CPI for the past eight years. She is the Vice-President/COO of Consumer Credit Counseling Service of Montana, Inc. Presently, Sue is serving as Treasurer for District 10 and is the Board Chair for Russell Country FCU. At the 2000 International Conference in St. Louis, Sue was invited to participate in the training and marketing of the audio series, "Take Charge of Your Life." Married for 27 years, Sue and Larry have two daughters—Heather and Adrienne—son-in-law Brian and the grandest grandson, Deven.*



## I, Lobbyist



*By Anne Hammond*

To lobby is to try persuading legislators to enact or not to enact bills. There are two types of lobbying. The first of which is direct lobbying, where you deal directly with the legislators at whatever level. The other is called "grass roots lobbying," where you are encouraging constituents of legislators to exercise their influence with the legislators for or against some proposed or existing legislation.

Can an individual try to persuade a legislator to enact or not to enact bills? The answer is a resounding YES and you can thank Richard Henry Lee of Virginia! He is recognized as being largely responsible for the adoption of the first ten amendments (the Bill of Rights) to the Constitution. The First Amendment states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." In lobbying, the sections that interest you are those referring to freedom of speech and petitioning the government for a redress of grievances.

In this article, I am going to talk about what an individual can do. Remember, individual lobbying is seeking to persuade a public official at whatever level to vote your way. It is essentially a sales job, as you will attempt to market your views on a piece of legislation, so as to convince the legislator that your way is the only way to vote.

There are a number of ways to approach this, The first and most important thing is that basic instruction: "Do your homework!" Once you have done this, you are ready to start. In other words:

- Learn as much as you can about the process. There are books in the library that deal with our system of government in action. Get one and read it. If

- you are Internet active, look at the wealth of information available there.
- Register to vote and vote. If you were a legislator, wouldn't you pay a bit more attention to a registered voting constituent?
  - Know who represents you! Learn the names of your representatives on the city, state and national level. Learn the names of the governor, lieutenant governor and legislative leaders such as the Speaker of the House and President Pro Tem of the Senate.
  - Develop personal relationships with as many legislators as possible. You want a network of connections that know you and will help you with information and contacts.
  - Acquire a basic understanding about how legislators and the legislative process work. Even on a local level, it can be a pretty complicated procedure. If you understand its workings, you will be able to intercede at the proper time to make a difference.
  - Develop a plan detailing what you want and how you expect to obtain it.

Person to person contact with a legislator can be a good way to start. Compare this to any sales or customer calls that you make in business and handle it as the professional you are. It is best to write or call and make an appointment to see the legislator. Do not try a "cold" call. You should learn the correct way to address the legislator before the meeting.

At the meeting:

- Introduce yourself, state your credentials and, if you are part of a group, give a brief summary about the group.
- Open the meeting with a clear but short statement about what you want to discuss, why you feel the way you do and what action you expect from the legislator.
- Prepare a brief fact sheet covering all the points you have raised and stating your objectives.
- Remember that there are two parties to the meeting. So allow the legislator to respond and listen to what he or she is saying.
- The legislator may have questions and this is where all that homework can pay off.
- Begin to close the meeting by asking a direct question about the legislator's stand on the issue.
- Remember that you want to get a commitment of future support from the legislator. However, do not press too hard if he/she seems reluctant to commit.
- Thank the legislator for his/her time.

After the meeting, document what was said for your records as soon as possible. You should also send the legislator a thank you letter in which you restate your position and confirm any commitment that might have been

reached. This should be done promptly, with copies sent to any other interested parties.

Suppose, though, that you have tried for a meeting with the legislator but because of scheduling conflicts, distance, etc., it just cannot be done. Do you give up? Of course not. You simply turn to any one of several other methods of lobbying a legislator.

You may be offered a meeting with an aide instead of the legislator. This meeting should be handled in much the same way as described above. However, remember that an aide will probably not be able to commit to supporting your views. Your task is to persuade him/her to pass your message on to the legislator promptly and sympathetically.

You can write to the legislator stating your views in a letter, e-mail, telegram or fax. You should learn the proper salutation for the legislator and state your case briefly and clearly. In the letter, you should spell out exactly what you want the legislator to do: introduce a bill, vote against a bill, or vote for a bill. The letter should be typewritten and include your full name, address and telephone number. Remember that you have to attract the attention of a very busy legislator so the first paragraph should include your credentials, the name or number of the bill and your position on it. Later paragraphs can include information or figures to support your views and information on how the bill may affect the community for good or ill. One or two pages is the maximum length for such a letter and the letter should cover only one issue.

You can telephone the legislative offices and give your message verbally to the legislator, an aide or a voice mail system. If you speak to the legislator or an aide, you should immediately write a thank you letter detailing your understanding of the discussion. If you wind up using a voice mail system, be sure to include your name, credentials and telephone number in the message.

You can attend one of the rallies or constituent meetings that most legislators hold from time to time and give your message there. Have a written summary of your views with you and, if possible, give it to the legislator.

All of these activities can be done as an individual. However, consider how much greater an impact many individuals working together could have. There will be other individuals who share your views. Find them and work together. Consider endorsing candidates who are friendly to your cause and working for their election. Think about seeking appointments or election to boards or commissions, which make and implement regulations. The ultimate commitment would involve running for office on a platform based on your views.

I think you have the idea by now. You must make yourself heard and you must keep on making yourself heard. It is not easy and you cannot give up. Patience is not an easy virtue for us when we are committed to a cause.

In lobbying as in any commitment, your attitude makes a difference. Of course, you have a passionate belief in your cause, otherwise you would not be doing this. However, always remember that there are other points of view and you must be tolerant of them. You are trying to persuade, not force others to share your views. This means that you must keep cool, keep your sense of humor, keep a smile on your face and keep looking to the long term. Always remember that as Thomas Huxley said, "It is not who is right, but what is right that is of importance."

#### ***About the author***

*Anne Hammond was originally a member of CPI of Orlando, Florida, where she served as president before accepting a company transfer. She has been a member of CPI of Atlanta since 1987. She has been president of CPI of Atlanta twice, president of CPI of Georgia three times and president of the Inter City Credit Council. She has served on numerous state, district and international committees in CPI in the past and on the district level for the International Credit Association. She is presently secretary/treasurer of Credit Professionals International of Georgia.*

*She qualified as a Certified Credit Bureau Executive in 1990 and re-certified in 1994, received her Master Professional Credit Executive Certification and was CPI of Atlanta's 1998 and 2001 Outstanding Member of the Year. Anne began working with Equifax in 1954 and officially retired in 1997. She was a member of the Equifax 1993, 1994 and 1995 Winner's Circle for outstanding performance and is the 1996 recipient in the Equifax W. Lee Burge Award for exceptional community service. Her hobbies include reading, travel and volunteer work.*

*She wishes she had learned all this information about lobbying and political activity a long time ago.*

## Collecting in the Medical Office



*By Darlene Eason*

How many times have you heard, "I left my checkbook at home," "I forgot my credit card," "Can't you just bill me?"

Did you ever feel like saying, "Does your grocer, dry cleaners or service station bill you? No, they do not." Well, we cannot say that to our patients.

The best way to ensure payment is to make sure the patient is well informed.

- Review what treatment the patient will be receiving.
- Discuss how payment is to be made.
- Get financial arrangements in writing.

Some dental offices are asking for payment at the time of service.

The third party financing is a very good way to get out of the insurance loop and get back to running your office. These are a few of the many financing companies that are available:

**Care Credit:** This is a credit card that may be used in some medical and dental offices. An application is filled out at the office and the patient is issued a line of credit. The monthly payment can be set for 12 months, same as cash, or financed with monthly payments.

**American General:** A credit application is filled out in the office and faxed to the nearest American General office. Generally a response will take no longer than 20 minutes. A certain percentage will be billed to your office. They have up to 12 months, same as cash, and also financing up to 60 months.

**Dental Fee Plan:** This company is similar to American General in their application form and fee schedules.

When dealing with any outside financing, make sure they are non-recourse companies (if the patient does not meet their obligation of payment, the account is not turned back to your office to collect).

The longer a debt stays at your office, the less likely you will collect, according to a survey done by the Commercial Collection Agency Association of the Commercial Law League. The likelihood of recovering a current balance is over 94%. After 90 days the percentage drops to 74%.

Some of the reasons you may not be able to collect are:

- Debtor files bankruptcy
- Debtor cannot be located
- Misplaced files
- A change of staff at the office

Decide whether you are accepting insurance or not.

Reasons for rejection of insurance claims:

**Doctor error:** Make sure all codes are correct.

**Doctor's signature missing:** Signature must be on all claims.

**X-ray not sent:** This is being used to delay payment to you.

**Pre-existing conditions:** These may be illnesses that the patient had before they were insured.

**Bad processing of claims:** Medicare is processed separately by states.

**Not medically necessary:** The consultant hired by the insurance company to review your claim may decide that the treatment was not necessary. (As a consumer, remember to ask questions and also remember that YOU pay the premiums. It is YOUR insurance policy.)

There are some laws that have been put into effect of which you may not be aware. Placing telephone calls or attempting to communicate with a patient at his place of employment may be harassment unless you were not provided with an alternative phone number.

References:

CDR Financials Services, LLC [www.cdrfinancial.com](http://www.cdrfinancial.com) & [www.aelsvc.health.webmd.com](http://www.aelsvc.health.webmd.com)

#### ***About the author***

*Darlene Eason has been a member of the Charlotte CPI association since 1995. She has served in all offices at the local level. She has a son named Travis and a grandson named Peyton. She is employed by Drs. Thomas Layton, DDS and Mitchell Hume, DMD. in Charlotte, NC.*

## So You Want to Buy a House...



*By Bernice Brown*

The ultimate American dream is to own your own home. Pride in the ownership of your home gives you happiness and contentment for you and your family. However, this can be an experience that becomes frustrating and downright intimidating. The real estate world has a language all its own. The person who has never purchased a home before or the couple who purchased a home 25 years ago and now want a retirement place often are made to feel out of sync.

The following are just a few terms you will hear when shopping for a home:

**Adjustable Rate Mortgage (ARM)** - A mortgage loan that allows the lender to adjust the interest rate in accordance with a specified index periodically and as agreed to at the inception of the loan.

**Appraisal Report** - A report that sets forth an estimate or opinion of value.

**Appraised Value** - An opinion of value reached by an appraiser based upon knowledge, experience, and a study of pertinent data.

**Appraiser** - A person qualified by education, training and experience to estimate the value of real and personal property.

**Borrower** - (That's You!) The party obligated to repay the indebtedness secured by the mortgaged premises.

**Buydown** - Money advanced by a third party (usually the property seller) to buy down the interest rate and thereby reduce the monthly payments for a home mortgage either during the entire term or for an initial period of years. Also a decrease in the guaranty fee required by a secondary market investor for securitizing a pool of mortgages in exchange for a one-time cash charge.

**Cap (interest rate)** - Refers to the maximum allowable interest rate increase for adjustable rate mortgages.

**Closing** - The conclusion of a transaction. In real estate, it includes the delivery of a Deed of Trust/Mortgage, financial adjustments, the signing of documents, and the disbursement of funds necessary to the sale or loan transaction.

**Closing Statement** - A financial disclosure giving an account of all funds received and expected at closing; escrow deposits to taxes, hazards insurance, and mortgage insurance. All FHA, VA, and most conventionally financed loans use a uniform settlement statement called the "HUD 1."

**Collateral** - The property that is pledged as security for the satisfaction of a debt.

**Conforming Loan** - A mortgage loan that meets the underwriting guidelines, loan amount limits, and regulatory parameters set by Freddie Mac and Fannie Mae.

**Consumer Reporting Agency or Bureau** - An organization that is engaged in the preparation of reports used by credit grantors to determine the credit and public records' history of an individual. The agency obtains data for these reports from repositories of accumulated credit records as well as from other sources.

**Conventional Mortgage** - A mortgage that is not insured or guaranteed by the federal government.

**Cost of Funds Index (COFI)** - Index used on adjustable rate mortgage loans. Borrower's mortgage payments rise or fall based on the widely published COFI, which is based on what financial institutions are paying on money market accounts, passbooks, CDs, and other liabilities.

**Credit History** - A borrower's demonstrated willingness to repay debt.

**Creditor** - The entity named on the Note and other loan closing documents.

**Debt-to-Income Ratios** - Calculations that are used in determining whether a borrower can qualify for a mortgage. They consist of two separate calculations: a monthly housing expense-to-income ratio and a total obligations-to-income ratio.

**Deed** - A written instrument by which some degree of ownership interest in real estate is transferred from the grantor to a grantee.



**Deed of Trust** - A deed to real property used in some states which serves the same purpose as a mortgage but involves three parties rather than two. The third party is a trustee who holds title to the real estate for the benefit of the lender. The borrower is referred to as the trustor and the lender as the beneficiary under a deed of trust. The trustee has the power to sell the property and pay the debt in the event of a default by the borrower. When the borrower pays the debt in full, the trustee conveys title back to the borrower using a deed of reconveyance.

**Equity** - The difference between fair market (or appraised) value of a property and outstanding mortgage balances.

**Escrow Account** - A trust account established to hold funds allocated for the payment of real estate taxes, hazard or mortgage insurance premiums, etc., as they are received each month and until such time as they are disbursed to pay related bills. Known as an impound account in some areas.

**Federal National Mortgage Association (FNMA)** also referred to as Fannie Mae - A government-sponsored private corporation created by Congress to support the secondary mortgage market. It is the largest purchaser and seller of conventional residential mortgages, as well as mortgages insured by the FHA or guaranteed by the VA.

**Fee Simple** - This is the highest form of ownership a person can have in real estate, including the right to occupy, dispose of, and bequeath the property.

**FHA Mortgage** - A mortgage that is insured by the Federal Housing Administration; it is referred to as a "government" mortgage.

**Federal Home Loan Mortgage Corporation (FHLMC)**, also referred to as Freddie Mac - A quasi-governmental agency that purchases conventional mortgages in the secondary mortgage market. It sells participation sales certificates secured by pools of conventional loans, their principal and interest are guaranteed by the federal government through FHLMC. It also sells GNMA bonds to raise funds to finance the purchase of mortgages.

**Federal Housing Administration (FHA)** - A division of the Department of Housing and Urban Development (HUD), was established in 1934 to increase home ownership by providing an insurance program to safeguard lenders against borrower default. The FHA sets standards for property construction and credit underwriting, but it does not lend money, plan or build housing.

**First Mortgage** - A mortgage that is the primary lien against a property.

**Fixed-Rate Mortgage** - A mortgage that provides for only one interest rate for the entire term of the mortgage. If the interest rate changes because of

enforcement of the due-on-sale provision, the mortgage is still considered a fixed-rate mortgage.

**Flood Data Services, Inc. (FDSI)** - Organization that provides certification that the property has flood insurance.

**Flood Insurance** - Insurance that compensates for physical property damages resulting from flooding. It is required in federally designated Special Flood Hazard Areas.

**Funding Date** - The date when payment is disbursed to the Seller for a mortgage purchased.

**Gift Funds** - An outright gift of funds from an acceptable source.

**Hazard Insurance** - Insurance coverage that compensates for physical damages - by wind, fire, or other natural causes - to the property.

**Housing Expense-to-Income Ratio** - The amount of a borrower's total housing expense (principal, interest, taxes and insurance) expressed as a percentage of the borrower's income. One of the criteria used by lenders to calculate the risk involved in making a loan to a prospective borrower.

**Lien** - A legal hold or claim of one person on the property of another as security for a debt or charge.

**Loan-To-Value (LTV) Percentage** - The relationship between the unpaid principal balance of the mortgage and the property's appraised value (or sales price, if it is lower).

**Margin** - The amount that is added to an index value to create the mortgage interest rate for an ARM loan.

**Market Value** - The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the Buyer and Seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

**Mortgage Insurance** - The function of Mortgage Insurance (whether government or private) is to insure a mortgage lender against loss caused by a mortgagor's default. This insurance may cover a percentage of or virtually all of the mortgage loan depending on the type of mortgage insurance.

**Mortgage Insurance Premium (MIP)** - For government loans only, a fee paid by the mortgagor that insures an FHA mortgagee against loss. MIP does not pay off the loan if the mortgagor dies.

**Mortgage Insurer (MI)** - Any one of the private or state mortgage insurance companies that insure us against loss in the event of a mortgagor's default under a conventional loan.

**National Flood Insurance Act** - The Flood Insurance Notification, which notifies the borrowers that the property lies within a flood zone, must go out at least 10 days prior to the loan closing, or not less than the date of the commitment/approval, if less than 10 days.

**Note** - A promise to pay a sum of money at a stated interest rate during a specified term.

**Note Rate** - The interest rate paid by the borrower, as stated on the note.

**Occupancy** - Physical possession of real estate.

**Origination Fees** - The fees charged by a lender to prepare loan documents, make credit checks, inspect, and sometimes appraise a property. The fees are usually computed as a percentage of the face value of the mortgage.

**Owner-Occupant** - An individual who meets all the following requirements: (1) Resides in the mortgaged premises, using it as a primary residence; (2) Is listed as an owner of record (by deed), and (3) Has executed the Note and the security instrument.

**Owner-Occupied** - A property that meets the following requirements: (1) Owners reside in the mortgaged premises, using it as a primary residence; (2) Property is listed by owner of record (by deed).

**Ownership** - The right to hold, possess, control and dispose of property.

**Payoff** - Payment-in-full of a loan at or before maturity.

**Permanent Buydown** - The payment of a discount in order to lower the interest rate, and thereby the monthly payment amount, of a mortgage loan for the life of the loan.

**PITI** - The monthly mortgage payment comprised of principal, interest, taxes and insurance.

**Prepayment Penalty Option** - Available on certain loans only, and is designed specifically for borrowers who are not planning to refinance their mortgage within the first five years of a loan.

**Principal Residence** - A borrower's primary residence.

**Private Mortgage Insurance (PMI or MI)** - Insurance written by a private mortgage company protecting the mortgagee or investor against loss caused by default. Conventional loans with a LTV ratio greater than 80% must have PMI.

**Purchase Loan** - A mortgage loan in which the funds are used to purchase a property.

**Qualifying Ratios** - Calculations used in determining whether or not a borrower can qualify for a mortgage. They consist of two separate calculations: monthly housing expense-to-income and total monthly obligations-to-income.

**Real Estate Settlement Procedures Act (RESPA)** - This is a federal law that requires lenders to provide home mortgage borrowers with information of known or estimated settlement costs.

**Real Property** - Land and generally whatever is growing on, built on or affixed to the land.

**Survey** - A measurement of land, prepared by a registered land surveyor, showing the location of the land with reference to known points, its dimensions, and the location and dimensions of any improvements.

**Title** - The evidence of the right to or ownership in property.

**Title Insurance** - A contract by which the insurer agrees to pay the insured a specific amount for any loss caused by defects of title to a parcel of real estate (wherein the insured has an interest as purchaser, mortgagee or otherwise), other than encumbrances, defects and matters specifically excluded by the policy.

**Trustee** - A person who holds or controls property and manages it for the benefit of another (the beneficiary).

**Underwriting** - The analysis of risk, the determination of the appropriate loan amount and the setting of loan terms and conditions, based on the borrower's creditworthiness and the value of the real property that will secure the loan.

**Verification of Employment (VOE)** - Documentation of a mortgage applicant's work history.

**Veterans Administration (VA)** - An independent agency of the federal government that is authorized to administer a variety of benefit programs for veterans.

There are many more terms that apply to real estate and, if you don't know what they are talking about, "ASK!". There are no stupid questions when you

are buying a home. This affects your future. Many times the loan officer will hurry through to finish the loan process. If they are going too fast, tell them to slow down, and then ask your questions. This usually happens when the lender's representative works on a commission basis. This means they have no fixed salary, only what they earn from mortgages.

Shopping for the right loan for your particular situation is sometimes overwhelming. There are conventional loans, FHA loans, VA loans. My suggestion is to take a note pad and pencil with you when shopping, ask about different kinds of loans, how they work, how much is required for a down payment and what are your closing costs going to be. The more research you do, the better informed you will be when you select your mortgage.

***About the author***

*Bernice Brown recently retired from First Victoria National Bank after 25 years of service and then went to work for First State Bank of Texas, which was then purchased by Wells Fargo Bank. She is a Home Mortgage Consultant. Bernice is also a Mary Kay consultant.*

*Bernice has been in CPI over 25 years, holding offices on the local and district level. She is a past Career Club President at the International level.*

*Bernice's hobbies include gardening, reading, crafting and cooking. Outside organizations include the American Business Women's Association and Victoria Bach Festival Association.*

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## DARE TO DREAM



*By Curt Marsh*

"The foremost obstacle to experiencing success in our lives is our own construction of barriers that paralyze us from taking action."

I have always been a dreamer. As a young child, I imagined and believed that someday I was going to be famous.

At different times in my childhood I saw myself growing up to be a rock star, a military hero, or even a professional athlete. I used to stand in front of the mirror in my bedroom strumming an old guitar and playing along with songs on the radio, as if it were me singing and playing. I could imagine the girls cheering for me and fainting. After one of my "rock concerts," I could easily change dreams and become a commando. I had seen a movie on television about a World War II Medal of Honor winner. I just knew that someday I could do that. I was a one-man wrecking crew storming our garage with toy guns blazing. I imagined myself wiping out entire armies and receiving a medal of my own. As I grew older and began to participate in sports, I continued to dream. But now I visualized playing in the NBA or NFL. I could play basketball or football in my backyard for hours in front of huge imaginary crowds.

I am not the least bit embarrassed to share these private moments of my childhood because I believe that my dreams were the foundation to my future success. Many, if not all, worthwhile endeavors begin with a dream or a vision. The excitement that the dream creates gives you a reason to jump up in the morning and look forward to the day. Your seemingly unrealistic dream or vision can give you the desire to start plotting a realistic plan to get there through the development of goals. These are activities that can stimulate hope and direction for your life.

Dreaming should come naturally, but the older we get the worse dreamers we seem to become. As an adult, I had the great fortune to relearn what came

naturally to me as a child by watching my own children's early years of discovering life. We are hardwired at birth with the capacity to imagine ourselves doing great and wondrous things. The most thrilling aspect of this gift is that whatever we imagine ourselves doing at this young age, we automatically believe completely and instinctively that we can and will accomplish it.

What in the world happens to us? Why is it that between kindergarten and the rest of our lives, we somehow lose this awesome belief in our potential and undeniable confidence in our ability to imagine a dream and accomplish it?

Periodically, I watch or listen to a motivational tape. On one occasion, I was viewing a video of a gifted speaker named Rolfe Carawan. During his talk he told a story that I believe gives a very good description of what happens to rob us of our natural ability to believe life will become what we dream it to be. The following is my best attempt to paraphrase his illustration.

Rolfe shared a childhood story that involved his grandmother, who owned a fish tank that was home to an ugly old fish called a wall-eyed pike. I'll give the fish the name "Fred." Every day, Rolfe's grandmother would send him to the pet store with enough money to purchase several guppies to bring home as lunch for old Fred. The young boy enjoyed watching this fat old fish chase and gobble up these unwitting little guppies so much that he would invite the neighbor children to join him during the daily feeding.

One day, on the way home from the pet store, one of the children noticed a piece of Plexiglas lying in the ditch beside the road. This inspired an idea. They brought the Plexiglas home, shined it up, and fashioned it to fit perfectly down the center of the fish tank. The children were then very careful to make sure that the guppies were dropped on the opposite side of the Plexiglas from Fred. As they expected, Fred saw lunch, went for it, and smacked full speed right into the hard Plexiglas. Rolfe described it as one of the funniest things he had ever witnessed. Fred shook his head from side to side, his eyes rolled around a little as he backed up and without a moment's hesitation went after lunch a second time at full speed and crashed face first once again. The children fell to the floor laughing. The fish tried again and again until the giggling children noticed that he had finally stopped. Fred was completely still and would not move. The old fish just stared through the Plexiglas at the free-roaming lunch on the other side of this invisible barrier.

Beginning to get bored with the lack of action, the kids pulled the Plexiglas out of the tank. Much to their surprise the wall-eyed pike did not move; he stayed completely still. The guppies started to swim around, even daring to swim right past the face of old Fred. Rolfe described how you could almost hear the fish saying to himself, *I am so hungry, and you look so delicious. But I am not stupid! I tried to eat you before, and I failed. I tried again, and it hurt. Oh no,*

*I'm not stupid. I will just stay here where it is safe. Even if I have to starve, I'll be satisfied right where I am.* Opportunities were literally inches away, and all Fred had to do was have the courage to try one more time.

I sincerely believe that what happened to the wall-eyed pike in this scenario happens to us, starting as little children and continuing through adulthood. At birth, we received the gift of dreaming and believing. Then we were introduced to failure and experienced pain, or we shared our dreams with someone we cared about and they laughed. Maybe we got the message that what we were proposing was impossible when we heard someone say, "You had better make your goals a little more realistic." It is then that we start to erect this invisible wall to remind us to not go that way again. We believe the wall is necessary to keep us safe from failure and criticism. Often we forget that we have even built the wall, as it becomes so natural to our way of thinking and shields us from pain and disappointment.

The catch is that after we build it, the wall is also very successful at blocking our progression towards anything challenging. Many people wander through life having forgotten the gift of dreaming because they are literally afraid of using it. They refuse to follow the dreams of their youth or dare to create new ones as adults because they are convinced that the result will be painful, and they are not willing to endure it.

It is frightening to realize that a disproportionate number of our youths, teenagers and adults in America feel as helpless as the wall-eyed pike. Many become consumed by the belief that there is no hope for their future. They feel they could not go anywhere even if they tried. This lack of hope often leads to depression and even death. I recently heard that suicide is the third leading cause of death among America's 15- to 20-year-olds, and that the suicide rate among children 10 to 14 has doubled since 1980.

We have learned to avoid the pain of failure at all costs. For some, this pain may be caused by valid medical problems, such as a chemical imbalance that leads to depression or anxiety disorders. In these cases, treatment is the answer. However, many are healthy and have just accepted the lie that they are limited in what they can accomplish. They believe it is easier to set no standards for their lives, rather than make the effort to raise them. When there is no hope for the future, all things, including human life, can become insignificant.

During the competition for the 1995 Wheelchair and Amputee National Championships, Chuck was one of my roommates. He was in a wheelchair and paralyzed from the waist down. He had been in college when his roommate decided to buy a handgun. Chuck didn't like guns and had cautioned his roommate about the dangers of leaving the loaded gun in the top drawer of the desk they shared in their room. One day Chuck was in a hurry to get to class and he quickly pulled open the desk drawer looking for a pen. The drawer flew



open and, as the gun slid forward, it went off. The bullet went right through his stomach and lodged in his spinal cord, severing the nerves. One moment the man was getting ready to jog to class and the next he was lying on the floor, a paraplegic. Despite this man's circumstances, he had finished college, gotten a job as an engineer, and began competing in table tennis. He had been a two-time national champion.

Not once did I hear Chuck complain. As a matter of fact, he repeatedly told us how lucky he felt he had been. Another few inches and he would have been dead. This man was truly a victor. He said he had dealt with his anger toward his roommate and forgiven him. He had resolved his anger at God and conceded that God had a plan for his life and this was just part of it. Not good, not bad, just life. He encouraged me to do the same and I was inspired. I wanted to be able to encourage people in the same way that he inspired me.

Many are never compelled to challenge themselves to dream of being something more than they are right now. They have erected their own depressing invisible shields of past failures that translate to them that their lives are hopeless. They are convinced that things will never change and they must accept their lot in life. They have built these defenses which stop them from even starting to dream.

I am challenging all of us to remember for ourselves and remind others what incredible gifts we were given when we came into this world. And I urge you to choose to utilize the powerful gifts of dreams and imagination you inherited as a newborn and live the gift of empowerment that working toward your dreams, in spite of past failures, will bring.

The foremost obstacle to experiencing success in our lives is our own construction of barriers that paralyze us from taking action. Although the barriers may be, and most often are, conceived in the negative input from others, they can only be erected or dismantled by us. We can truly choose how great we want to be.

Relearning how to dream like a kindergartner is the first step to reaching your potential. Step two is choosing the courageous action of going through your invisible wall and, therefore, obliterating the illusion that it exists at all. The third step includes the setting of goals and the construction of a plan to achieve them. As you progress from step to step, it is essential to realize that every single decision you make will either bring you closer to your dream...or take you further away.

#### ***About the author***

*Curt Marsh played football for the University of Washington from 1977 to 1980. After his senior season, Curt was selected as a college All-American and named one of the best 100 football players in the University of Washington*

history. In 1981, he was the first-round draft pick of the Oakland Raiders and voted to the NFL All-Rookie team.

Curt's NFL career was cut short in 1987 due to a severe ankle injury, which eventually led to the amputation of his right foot and ankle in 1994. After being fitted with an artificial leg, Curt was determined not to act "disabled" and started training to compete in events organized for wheelchair and amputee athletes, where, in 1995, he won the gold medal in power lifting.

After managing a vending company for three years, he was hired in 1990 as the Youth Programs Coordinator for the City of Everett, WA, working up to Supervisor of Recreation.

Curt began his professional speaking career as a part-time venture in 1991. Since that time he has spoken to nearly a million young people and hundreds of businesses, associations and community groups throughout the United States and Canada, earning a reputation as a highly skilled motivational communicator.

Curt retired from the City of Everett in 1999 to pursue his passion for public speaking full-time and to undertake the challenge of becoming a successful writer. Curt currently lives in Snohomish, WA, with his best friend and wife, Pam, their two sons, Jake and CJ, and wonderful daughter Jillian.



*A Salute to Our Bosses  
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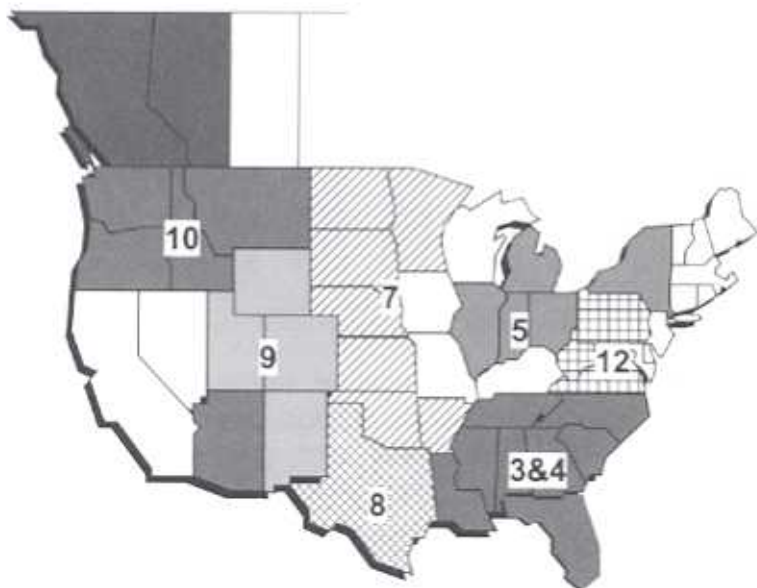
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## Manual, Exams, Cards

1. Manuals are the basis for the educational programs for the local associations. Each local CPI is expected to have regular meetings which include educational programming. You may use the manual articles, monographs and other materials from the corporate office that you feel are most appropriate for your CPI local.
2. Manuals and membership cards are mailed to each member when dues for the current year are paid.
3. Although the test is not required, many associations still use the test as an educational tool. The education chairman of each local association is responsible for developing a test for their local association.
4. Examinations are given and corrected locally. Examinations must not be given a second time, unless members did not take it at a regular meeting. A score of 80% is passing.
5. Education cards are available (upon request) from the corporate office.
6. Some local associations award the education cards at the Annual Bosses Dinner or Breakfast. Others send them to the member's employer, sometimes for information purposes, or the employer may want to present the card to the member. However it is done, it should be significant, for this is the core of the CPI objective: successful accomplishment of the educational program. In addition, it is visible evidence that the members are interested in personal and career development.
7. If you have any questions, please contact the corporate office. Phone: 314/961-0031. Fax: 314/961-0040. Address: 525-B N. Laclède Station Road, St. Louis, MO 63119. Email: [creditpro@creditprofessionals.org](mailto:creditpro@creditprofessionals.org). Also check [www.creditprofessionals.org](http://www.creditprofessionals.org) for forms and information.



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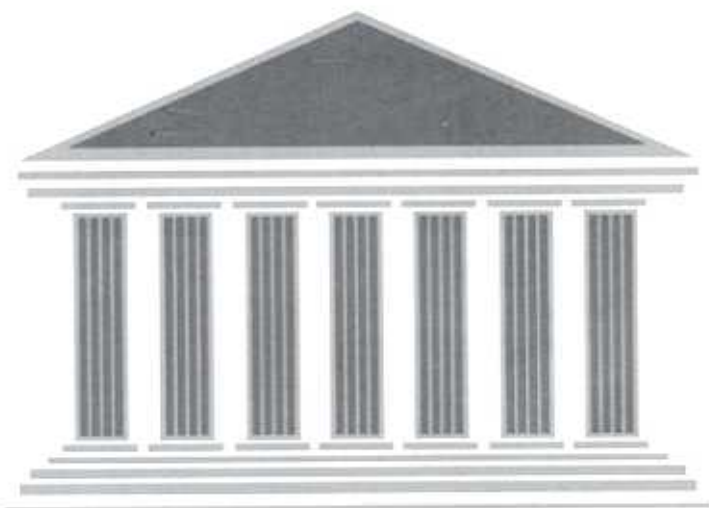
- District 3 & 4: States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.
- District 5: States of Illinois, Indiana, Michigan, New York, and Ohio.
- District 7: States of Arkansas, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma and South Dakota
- District 8: State of Texas
- District 9: States of Colorado, New Mexico, Utah and Wyoming
- District 10: States of Alaska, Arizona, Hawaii, Idaho, Montana, Oregon and Washington; Provinces of Alberta and British Columbia, Canada
- District 12: States of Pennsylvania, Virginia, West Virginia, and Washington, D.C.

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