



Painting and Decorating Contractors of America



October – November Newsletter 2006

## Monthly News Update

# How a Contractor Can Get Paid from a Deadbeat

Deadbeats! Everyone unknowingly does business with a deadbeat sooner or later. After all, many of them look and act like normal trustworthy people. They don't have a big sign on their chest saying "Watch out. I'm a deadbeat. I specialize in lying and stealing. Please sell something to me. I like free things."

When you come face-to-face with a deadbeat, what should you do to protect yourself? How can you get the money that you are entitled to? If you are able to identify the person as a deadbeat before doing business with him or her, you would be wise to just walk away from the business and move on to the next job. But what if you don't find out until after you are in the middle or end of the job? What should you do? We will address both of these possibilities. It all starts with a plan.

You would not build a house without a foundation, would you? Of course not! Well, the foundation in collections is your contract and your process for deciding with whom you do business with and under what terms. If you do these two things right, you will avoid selling to many deadbeats and will have a better chance of collecting your money if you do work for them.

### **The Construction Contract – Your First Line of Defense**

In football, defense wins championships. In construction, you need a good defense to win the battle with a deadbeat customer. Your first line of defense is your contract. Without a good contract, you will not have the leverage you need to force payment when your customer is avoiding payment unjustly. I won't go into too much detail here but your contract should have the following elements included in it.

- 1) Have a lien provision in your contract and invoices. Without this provision you will not be able to legally put a lien on a residential property.
- 2) Include a cancellation provision in your contract. Make sure you clearly state how much is due when the contract is cancelled.
- 3) Payment terms should be stated clearly along with the consequences for not paying within terms.
- 4) Charge 1.5% monthly service charge for late payment.
- 5) Make your customer liable for attorney's fees if they don't pay.
- 6) Require all owners to sign the contract when you do residential work for a jointly owned residential property or for a married couple (important if being awarded a judgment). Verify the property ownership online (free) <http://revenue.stlouisco.com/ias/> is St. Louis County and in St. Charles Co. [http://www.saintcharlescounty.org/scc\\_collector/main.aspx](http://www.saintcharlescounty.org/scc_collector/main.aspx)
- 7) Provide in detail the work that you are going to do and for what price to avoid disputes. BE SPECIFIC and use language that a layman can understand.

- 8) When asked to do additional work make sure you have the owners sign a change order to clarify what you are doing and what your additional charge is. Do not work solely on verbal instructions.

**Check out your customer before you agree to provide credit terms.**

- 1) Check public records online (or by phone) for free to get –
  - A. Suits and Judgments. Many counties in Missouri report this information to Case Net. Their web address is [www.courts.mo.gov/casenet/base/welcome.do](http://www.courts.mo.gov/casenet/base/welcome.do)
  - B. Bankruptcy filings. Call 314-244-4999 for automated response (Eastern District of Missouri only).
  - C. Criminal Records.
- 2) Ask what type of work your client does and where he is employed. This can be done in casual conversation. This will give you an idea of their income level and stability. If payment is not made and you are awarded a judgment, you know where to go to garnish wages.
- 3) If your customer is a business, check online free with
  - A. The Better Business Bureau Their web address is [www.stlouis.bbb.org](http://www.stlouis.bbb.org).
  - B. The Secretary of State for Corporate Status. See how long the company has been in business and if the owner has a history of business failures. The web site for this is [www.sos.mo.gov/BusinessEntity/soskb/csearch.asp](http://www.sos.mo.gov/BusinessEntity/soskb/csearch.asp).
- 4) Verify financing on private jobs. Also learn the procedures for processing payments on all new projects.
- 5) Get a copy of a bond on government projects before you enter into a contract.

**They still have not paid. Now, how do you collect?**

Using the football analogy, now is the time to go on offense. Most successful offenses have a solid plan to attack their opponent's weaknesses. You need to do the same to give yourself the best chance of collecting your money. There is no time to waste. It's kind of like being behind in the game with time running out. It's your two minute no-huddle offense. Here are some do's and don'ts.

- 1) Do not write a bunch of letters. They are not very effective. Use the telephone as your main collection tool to speed up the collection process.
- 2) Visit the debtor unannounced and demand payment. If they are not at home tape a demand letter in a sealed envelope to their front door.
- 3) Don't let your lien rights expire. You have 180 days in MO to file a lien. It is there for your protection. Use it.
- 4) Don't make idle threats. Say what you are going to do and do what you say. They need to understand that you are serious and that you are not going to go away.
- 5) Don't procrastinate. Statistics show that the longer you wait the less likely you will be able to collect your money. In fact, once your invoice hits 180 days your chances to collect are about 50%.
- 6) Go up the ladder on a commercial job. Talk to someone higher in the organization or in the construction project ( i.e. general contractor, construction manager, or owner). Do this before the final payouts are made.
- 7) Don't be afraid to use the Small Claims Court to bring suit if the debt is \$3,000.00 or less. Small Claims Court cases are quick and easy and usually only cost about \$50.00.

- 8) Hire a professional collector if you are not making progress. Generally, invoices that are 90 – 120 days past terms are strong candidates for turning over the debt to a collection agency. Let them do what they do best so that you can focus on what you do best.

The longer you have been in business the more likely you will have some collections problems. It's inevitable. But you can reduce your risks and limit your losses if you implement the suggestions in this article.

*Beacon Recovery Systems is a local collection firm that specializes in collecting difficult commercial accounts and unsatisfied monetary judgments. Request a **FREE** copy of the booklet "18 Effective Credit Procedures that Every Company Should Implement" by contacting them at [Info@BeaconRecoverySystems.com](mailto:Info@BeaconRecoverySystems.com) or visit [www.BeaconRecoverySystems.com](http://www.BeaconRecoverySystems.com) . You may also call 636-386-3913 if you have any questions about the recommendations in this article or are faced with a current collection problem.*

