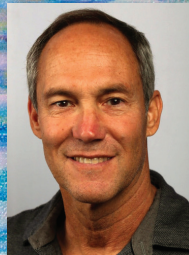


COMMERCIAL FACTOR

CONFERENCE ISSUE 2022 | VOL 24 | No. 1

CONFERENCE ISSUE 2022



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FROM THE EXECUTIVE DIRECTOR

BY TANIA DANIEL



IN MEMORY OF BERT GOLDBERG. WE WOULDN'T BE HERE WITHOUT HIM.

It has been an emotional year for the International Factoring Association, as its founder, Bert Goldberg, passed away in November, leaving behind a legacy that has touched countless members of this association and beyond. His impact has been evident in the way the factoring community has rallied around Bert's family and the IFA, offering condolences and sharing cherished memories. Because of your support, the IFA is well positioned to carry on the mission Bert originated in 1999 to assist the factoring community by providing networking opportunities, information, training, purchasing power and by being a resource for all things factoring related.

Bert was very excited about this year's conference location of Boston, which is also one of my favorite cities and is full of amazing food, rich history and the best sports teams in the nation. (Go Pats!) This year's annual conference is on track to be one of the best attended IFA conventions to date due in large part to the efforts of our managing director, Heather Villa, and marketing director, Terri Baker. Heather and Terri's love for our IFA membership is evident in each detail of the conference and to every member that speaks with them. I am grateful for their dedication to the IFA and am humbled to serve the association alongside them as executive director. I hope you will join us on the morning of May 5 in Boston as we kick off the conference, discuss the future goals of the IFA and pay our respects to the man who brought us all together.

This year's conference aims to help factors navigate many of the relevant issues facing our membership, such as workforce challenges, lender liability issues and cyber threats, to name a few. It is also a good opportunity to learn more about the American Factoring Association, the advocacy group dedicated to educating policymakers on the factoring industry, and how you can get involved to support the AFA as it endeavors to protect the best interest of factors. There will also be plenty of opportunities for in-person networking and to say hello to old friends, to meet some new ones and to connect with approximately 45 exhibitors who will be there to provide support to the factoring industry.

Most importantly, I want to say thank you to our amazing members for the love you showed Bert and his family over the last year and for the support you have given me as I have transitioned into the role of executive director. Thank you for serving the factoring community as panelists, speakers and sponsors at this year's conference and for all the great ideas you have shared on how the IFA can broaden its reach and continue to add value to our membership. We are excited about what's to come for the IFA and look forward to spending time with you in Boston.

Cheers!

Tania



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NEWS

People

Rosenthal & Rosenthal Names Cassie Rosenthal Chief Marketing Officer

Rosenthal & Rosenthal named Cassie Rosenthal chief marketing officer, making her the first woman in the company's 84-year history to join the C-suite. In her new role, Rosenthal will continue to manage business development strategy and marketing efforts for the company.

Bay View Funding Appoints Brame SVP, Regional Sales Manager

Bay View Funding, a subsidiary of Heritage Bank of Commerce, appointed Norman Brame senior vice president and regional sales manager. He will focus on originating new factoring business in Virginia, Tennessee, North Carolina and South Carolina, as well as in surrounding markets in the Southeast.

Revolution Capital Opens Office in Texas, Dipprey to Lead

Revolution Capital further broadened its expansion in the United States with a new office in Fort Worth, TX. As part of the new office opening, Revolution Capital hired Amelia Dipprey to head its Southern division as president. Most recently, Dipprey was the chief revenue officer of Flexible Funding and InstaPay.

Alterna Capital Solutions Moves Corporate HQ, Promotes Carpenter, Chan and Gunter

Alterna Capital Solutions moved its headquarters to a new office at 2420 Lakemont Ave. in Orlando, FL. In addition to the move and expansion of its corporate headquarters, Alterna reinforced its sales and originations platform and launched a new partnership channel. Three of the firm's managing partners will lead the efforts, with Alterna appointing Kevin Gunter and Greg Carpenter co-chief sales officers to expand sales and originations while tapping Lewis Chan to lead the development of a new strategic partnership channel focused on providing additional growth capital to sponsor-backed SMBs.

Guerrero Joins Quasar Capital Partners as VP

Quasar Capital Partners added Lori Guerrero to its executive team as vice president. Guerrero will spearhead the execution of Quasar Capital's strategic plan and be responsible for overseeing initiatives impacting clients and operations. Before joining Quasar Capital, Guerrero served in senior underwriting and managerial roles for various factoring companies.

Rosenthal & Rosenthal Promotes Yang to SVP and Director of Business Development

Rosenthal & Rosenthal named Ying Yang senior vice president and director of business development on its purchase order financing team, adding to her current factoring and asset-based lending responsibilities. Since 2017, Yang has served in a business



COMMERCIAL FACTOR

THE INTERNATIONAL FACTORING ASSOCIATION

6627 Bay Laurel Place, Ste C
Avila Beach, CA 93424
MAILING: PO Box 39
Avila Beach, CA 93424-0039
805-773-0011

EXECUTIVE DIRECTOR

Tania Daniel

PUBLISHED BY

The International Factoring Association

EXECUTIVE EDITORS

Lisa Rafter

info@commercial-factor.com • 610-213-9105

Rita Garwood

rita.garwood@rw-assoc.com • 484-253-2505

MANAGING EDITOR

Phil Neuffer

phil.neuffer@rw-assoc.com • 484-253-2504

EDITOR

Ian Koplin

ian.koplin@rw-assoc.com

ADVERTISING SALES

Laura Backe

laura.backe@rw-assoc.com • 484-253-2511

ADVISORY BOARD

Jay Atkins

*Seacoast Business Funding, a division
of Seacoast Bank, Boynton Beach, FL*

Bud Crawford

Coeur Capital, Inc, Atlanta, GA

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Dare Capital, Rockwall, TX

The International Factoring Association's (IFA) goal is to assist the factoring community by providing information, training, purchasing power and a resource for factors. The IFA provides a way for commercial factors to get together and discuss a variety of issues and concerns about the industry. Membership is open to all banks and finance companies that perform financing through the purchase of invoices or other types of accounts receivable.

Commercial Factor invites the submission of articles and news of interest to the factoring industry. **For more information on submitting articles or advertisements, email news@factoring.org, or call 805-773-0011.**

The views expressed in Commercial Factor are those of the authors and do not necessarily represent the views of, and should not be attributed to, the International Factoring Association.

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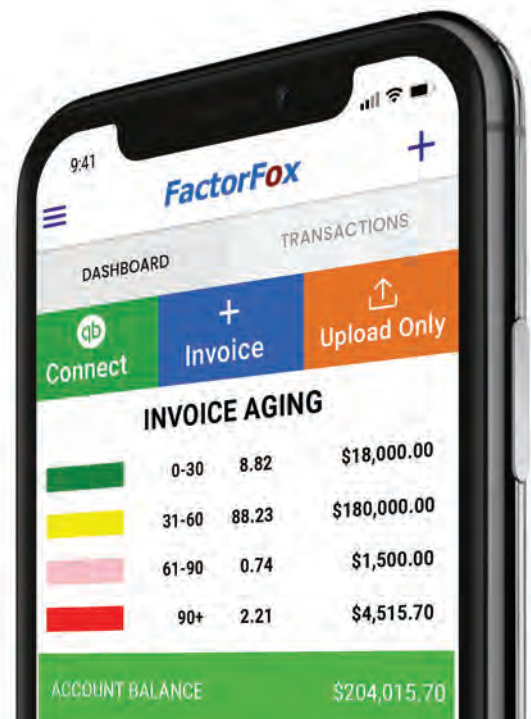
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NEWS

MIDWEST CHAPTER EVENTS 2022

May 4

IFA Annual Conference Chapters Reception

May 12

Free Networking & Cocktail Event

5:30pm-7:30pm

Pinstripes - Oak Brook, IL
Event limited to 55 attendees, so RSVP early. Email Gail Reints at gail@skybusinesscredit.com for more information

For more information on joining the Midwest Chapter, contact: Robert Meyers, Chapter President, at rmeyers@republicbc.com

NORTHEAST CHAPTER EVENTS 2022

May 4

IFA Annual Conference Chapters Reception

For more information, call Harvey Gross at (732) 672-8410 or e-mail hgross4@verizon.net or visit www.ifanortheast.org

SoCAL CHAPTER EVENTS 2022

May 4

IFA Annual Conference Chapters Reception

For more information on joining the SoCal Chapter, contact: John Cummings, Chapter President, at cummings.john@acsfactors.com or visit www.socalifa.org

development role in the firm's West Coast office, working with manufacturers, distributors and importers to structure factoring and asset-based loans.

Amerisource Appoints Goeken Regional Market Manager for Western Division

Amerisource Business Capital appointed Randy Goeken regional market manager. Goeken has more than 35 years of experience in commercial finance, primarily in business development and relationship management with lower middle-market companies. Based in California, he will be responsible for the development of Amerisource Business Capital's western division.

Bay View Funding Appoints Zahedani EVP, Credit & Portfolio Manager

Bay View Funding appointed Aaron Zahedani executive vice president of credit and portfolio management in San Jose, CA. In his new role, Zahedani will focus on overseeing the global credit risk and portfolio management team for all of Bay View Funding's various portfolios.

Bahr Joins TBK Bank as Chief Revenue Officer

Erik T. Bahr joined TBK Bank, a subsidiary of Triumph Bancorp, as chief revenue officer. In the newly created role, Bahr will be responsible for driving the go-to-market strategy, sales performance, client satisfaction and overall operations of the sales channels and partnerships for the bank's transportation lines of business.

Crestmark Hires Powell as Business Development Officer in Working Capital Business Unit

Crestmark added Warren Powell as a business development officer for its working capital business unit. Powell will be responsible for the promotion of the company's asset-based lending offerings. Powell has more than 20 years of alternative lending experience, having held several senior level business development positions across the industry.

McConlogue Joins Academy Bank as VP of Business Banking

Academy Bank expanded its business banking team in the Greater Phoenix area, with 20-year industry veteran Pam McConlogue joining the bank as vice president of business banking. McConlogue has experience in the areas of relationship management, factoring and asset-based lending.

Deals

Gemini Finance Provides \$10MM PO Financing Facility to COVID-19 Test Provider

Gemini Finance provided a \$10 million purchase order financing facility to a provider of COVID-19 tests to a state in the Midwest. The client required the funds to secure COVID-19 tests from a manufacturer and needed the capital quickly but was unable to secure funds from traditional banks or asset-based lenders. Gemini Finance performed the diligence on the transaction and provided the purchase order capital needed.

LSQ Provides \$30MM Credit Facility to Security Staffing and Technology Company

LSQ originated a \$30 million credit facility for a security staffing and technology company that serves clients across the United States. The company will use the additional capital to fund growth for its three business entities and to support the hiring of military veterans. As part of the partnership, LSQ will also provide the company with accounts receivable and customer credit management.

Alleon Healthcare Capital Provides \$6MM Medical A/R Financing to Primary Care Provider

Alleon Healthcare Capital closed a \$6 million medical accounts receivable financing facility for a primary care provider network based in New Jersey. Alleon structured the transaction as a financing facility made up of medical receivables that are billed to government insurance carriers with an advance rate of 80% on eligible receivables.

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NEWS

SOUTHEAST CHAPTER EVENTS 2022

May 4

IFA Annual Conference Chapters Reception

For more information, call Harvey Gross at (732) 672-8410 or e-mail hgross4@verizon.net or visit www.ifasoutheast.org

TEXAS CHAPTER EVENTS 2022

May 4

IFA Annual Conference Chapters Reception

For more information, email Jason Medley, Esq. at info@texasfactors.org or visit www.texasfactors.org

1st Commercial Credit Provides \$600K Payroll Funding to Woman-Owned Staffing Business
1st Commercial Credit provided \$600,000 in payroll funding to a woman-owned staffing business.

CapitalNow Cannabis Approves \$750K Factoring LOC for Cannabis Company
CapitalNow Cannabis approved a \$750,000 factoring line of credit for a vertically integrated cannabis and hemp company in Alberta.

eCapital Provides Nearly \$18MM in Payroll Funding Solutions to 17 Staffing Companies
eCapital's staffing division has provided nearly \$18 million in payroll funding solutions to 17 staffing companies since its inception in late 2021.

J D Factors Provides \$2.37MM in Recent Factoring Facilities
J D Factors recently provided \$2.37 million in factoring facilities for 11 new

clients, including \$500,000 to a transportation company in New Jersey.

White Oak Commercial Finance Provides \$7MM Factoring Facility to Staffing Company
White Oak Commercial Finance provided a \$7 million factoring facility to a technology-focused staffing firm that specializes in automating and streamlining temporary staffing services to warehouse and distribution centers throughout the United States.

Second Wind Facilitates BOK Financial's Exit on \$2MM Distressed Note
Second Wind Consultants facilitated Logan Fund's purchase of a distressed note at \$2 million par from BOK Financial. BOK Financial will exit from a lending relationship with a printed circuit board assembly company that has 60 employees. Second Wind Consultants reorganized the printed circuit board assembly company's business through a UCC Article 9 process to facilitate BOK Financial's exit and Logan Fund's entry.



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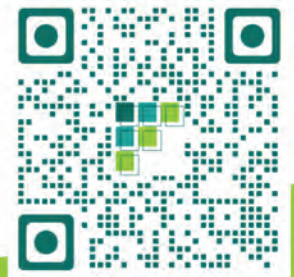
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NEWS

CANADA CHAPTER EVENTS 2022

April 19

Webinar

Cash Management Solutions

May 4

**IFA Annual Conference
Chapters Reception**

May 17

Webinar

Legal Update

Speaker: Dentons

June 21

Webinar

Economic Trends & What's Next

September – TBA
Annual Golf Outing

October 11

Webinar

Transportation Update

November 15

Webinar

Factoring Trends – State of the Industry

December 13

End of the Year Celebration

For more information, call Oscar Rombola at (905) 603-6284 or email oscar.rombola@ecapital.com. Visit IFA Canada's website at www.FactoringAssociationCanada.com

IFA CALENDAR OF EVENTS 2022

See IFA's full calendar on the inside back cover.

Registration Information:
www.factoring.org

Sallyport Commercial Finance Provides \$5MM Financing Package to Health Drink Manufacturer

Sallyport Commercial Finance provided a \$5 million financing package to a North American manufacturer of health drink products. The company is based in Canada and has a U.S. subsidiary. It produces nutritional health drinks aimed at people older than 40.

Rosenthal & Rosenthal Provides \$11.5MM PO Finance Facility to Apparel Company

Rosenthal & Rosenthal completed an \$11.5 million purchase order finance facility to support the production financing requirements of a Florida-based apparel company.

SLR Business Credit Provides \$1MM A/R Credit Facility to PowerSpike

SLR Business Credit provided a \$1 million accounts receivable credit facility to PowerSpike, an influencer marketing agency based in New York, which used the funds for additional working capital.

Accord Financial Provides Trade Recovery Guarantee Loan to Robotics Company

Accord Financial completed its first Export Development Canada trade recovery guarantee (TRG) transaction, adding an EDC TRG loan of \$250,000 to a Quebec-based automation component distributor's \$1 million factoring facility.

Gateway Trade Funding Provides \$1.5MM PO Facility to Importer of Dried Noodle Bowls

Gateway Trade Funding provided a \$1.5MM purchase order facility to an importer of dried noodle bowls.

Industry News

Tradewind Finance Partners with Finamco to Improve Factoring in Latin America

Tradewind Finance and Finamco formed a partnership to improve factoring services for businesses in

Colombia and the surrounding region. The two companies will combine their expertise in trade finance and their local and global networks to ensure accessible and effective financing for Colombian and other Latin American enterprises. As Tradewind's local partner, Finamco, utilizing its digital capacities, will be integral to assisting with receivables management for Tradewind's client relationships in and outside of Colombia.

Crestmark Combines Business Credit and Commercial Capital Groups, Among Other Changes

Crestmark made a series of organizational changes, including merging its business credit and commercial capital groups to create a newly formed working capital finance business unit and merging Crestmark Equipment Finance and Crestmark Vendor Finance into a single equipment finance business unit.

Factor Finders Paid More Than \$134K to Referral Sources in 2021

Factor Finders paid referral sources \$134,288 in 2021, an increase of 24% compared with 2020.

Solifi Added 15 New Customers, Completed 25 Go-Lives in 2021

In 2021, Solifi (formerly IDS), a global software provider for the secured finance industry, finalized its acquisitions of William Stucky and Associates and White Clarke Group, rebranded, launched a new website, added 15 new customers and completed 25 go-lives.

CIT Reorganizes Structure of Factoring Business

CIT reorganized its commercial services factoring business. Under the reorganization, Marc Heller, president of CIT commercial services, will report directly to Peter Bristow, president of First Citizens Bank, who began overseeing commercial banking following the Jan. 4 merger of First Citizens and CIT. In addition, Michael Hudgens will now lead commercial services as managing director and group head, with regional managers reporting to him. •

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solifi.com



Bert Goldberg (left) with his wife, Cheryl Goldberg (right), at the 2019 IFA Annual Conference.

The Lion of Factoring: Bert Goldberg Never Stopped Fighting

There would be no International Factoring Association without Bert Goldberg and to many, the factoring industry itself wouldn't be as vibrant as it is without his advocacy. Although Goldberg lost his life in 2021, his legacy will never truly die.

BY PHIL NEUFFER

Bert Goldberg was many things. He was a generous soul, a force for good, an exceptional husband and parent, a face of an industry and, to many, the father of the factoring industry. As the founder and executive director of the International Factoring Association, Goldberg's most publicized and celebrated achievements came from his work building and connecting the factoring community, which grew exponentially stronger and more connected thanks to Goldberg's vision and leadership.

"The work and effort that Bert put into supporting and strengthening our industry is invaluable," Glen Shu, president of Bay View Funding and the specialty finance group at Heritage Bank of Commerce and an IFA advisory board member, says. "Bert created a culture that brought competitors together to work in a collaborative environment for the betterment of the industry."

"He legitimized the factoring industry, brought the people together and helped establish best practices," Steven N. Kurtz, Esq., of Levinson Arshonsky & Kurtz, says. "He took what was, at that time, operating out in the Wild West and brought it all together, established standards and set it up as a legitimate organization."

Today, the IFA is the largest commercial finance association in the world, with members in countries across the globe. The association's premier event, its annual conference, has grown from small roots as a user group Goldberg hosted while president of factoring software firm Distinctive Solutions into a massive showcase for the industry that hosts more than 800 attendees each year. In addition, the IFA's lobbying arm, the American Factoring Association, a 501(C)6 nonprofit, advocates for the industry on Capitol Hill, providing education to lawmakers about the importance of factoring

Most who knew Goldberg well describe him as calm, gentle, kind, upbeat, understanding, accommodating, driven, passionate, witty and rational, and that's just the short list. Such characteristics made him an ideal leader for the IFA and a devoted friend, husband and father.

while ensuring protection for every participant in the industry. All of this and more has been accomplished because of Goldberg.

"I don't know that we'd be that tight-knit community if we didn't have somebody like him that brought us all together under an umbrella of being purposeful, ethically driven, holding ourselves to a higher standard of doing things the right way," Greg Salomon, president of Oxygen Funding and an advisory board member of the IFA, says.

Looking for Adventure

Although Goldberg grew to become one of the factoring industry's greatest champions, he led a life of adventure before he really found his calling, taking time from his first job after college for a biking tour across Europe and embarking on a backpacking tour through much of Southeast Asia in 1984 before returning to Distinctive Solutions.

Being active and exploratory was a hallmark of Goldberg's life. In addition to his love of travel, he was a longtime outdoor sports enthusiast

with a passion for kitesurfing, windsurfing, bicycling and swimming.

Goldberg's active approach to life was certainly a product of his upbringing. Born on Oct. 11, 1956, in Los Angeles, Goldberg grew up in the San Fernando Valley in Southern California with two younger brothers. During childhood, he displayed a mischievous sense of humor and a knack for always being on the move. Goldberg channeled some of that active spirit into swimming in high school, winning a state championship at Chatsworth High School in Los Angeles.

After graduating from California State-Northridge with a degree in accounting information systems in 1978, Goldberg worked for a medical billing company as a software developer and for Vandenberg Air Force Base, where he contributed to the space shuttle program as a computer programmer, before finding his way to Distinctive Solutions. Goldberg's professional life really blossomed at the company, as he would become the company's president while earning a master's degree from California Polytechnic State University in San Luis Obispo, CA.

It was at Distinctive Solutions that Goldberg was first introduced to the factoring industry. With his background, Goldberg knew all about the software sales side of the business, but he had to educate himself on other elements of the sector. In many ways, he learned the industry alongside many of its current leaders, according to Dean Landis, president of Entrepreneur Growth Capital and an advisory board member of the IFA.

Creating a Family

In 1995, Goldberg decided to launch a software user group meeting where he could learn about what concerned his clients and



educate them on the industry. In the first meeting, Goldberg, who preferred to shine the spotlight on others, invited Bob Zadek and Bob Weisberg, two industry insiders, to speak, creating the basis for what would become the IFA and, ultimately, its annual conference.

"The outside speakers became so popular that he had non-users wanting to attend his user group meeting," Cheryl Goldberg, Bert Goldberg's wife of 25 years, says.

Bert Goldberg and Cheryl Goldberg began dating right around the same time Bert Goldberg was advancing his career at Distinctive Solutions and building its user group meetings. As Cheryl Goldberg explains, she and Bert Goldberg originally met when they were in their early 20s, but they didn't begin seriously dating until their mid-30s when Bert Goldberg was living in Shell Beach, CA, near Cheryl Goldberg's mother's home.

During their first date at Guiseppe's Restaurant in Pismo Beach, CA, Cheryl Goldberg says she realized she was going to marry her dinner partner. Bert Goldberg would tell her he felt the same thing years later. They were both right, as Bert and Cheryl Goldberg were married on Nov. 10, 1996. They would become parents soon after following the birth of their daughter, Maleah, in 1998.

At the same time that Bert and Cheryl Goldberg were building a life and a family together, Bert Goldberg was constructing more of the foundation of what would become the IFA. Ever since its first meeting in 1995, Distinctive Solutions' user group continued to attract newcomers and veterans of the factoring industry alike, even though Goldberg himself wasn't technically in the industry per se.

"I thought, 'Where did this guy come from?' That he knows all this stuff about factoring, but he's not one," Debra Zukonik, co-founder and chief credit officer at Dare Capital and an advisory board member of the IFA, says. "He greatly broadened my knowledge base, even from the very beginning."

Launching the IFA

As the years went by and its popularity grew, the user group meetings became much more than a pet project and Goldberg eventually decided to form an entire association dedicated to the factoring industry. Helped in no small way by the sale of Distinctive Solutions to 3i Infotech, Goldberg was free to embark on his own journey, which he did by officially launching the IFA.

During those early years, Goldberg relied on the many industry friends he made during his years with

Distinctive Solutions to help lift the association into an established force. But he also had to overcome hurdles almost entirely on his own.

For example, during the leadup to the IFA's 2006 and 2007 conferences, which were to be held in Cancun and New Orleans, respectively, weather reports about two massive hurricanes headed for each location created a wave of doubt about the ability to actually hold the events. For an association as new as the IFA at the time, losing out on those conferences would hurt quite a bit. Goldberg tackled the challenge head-on, traveling to the two locations to find hotels that would accommodate the events, ensuring they were successful. With the drive and dedication Goldberg displayed during his life, if a venue couldn't have been procured, he may have even found a way to stop the hurricanes himself.

While that is obvious hyperbole, the standing Goldberg gained among association members over the years as the IFA grew was nothing short of super heroic. It's one thing to create the space for members of an entire industry to connect, but it's another to serve as the bridge that brings them together, even those who are active competitors. In addition, through his work guiding the IFA, Goldberg won the factoring industry the type of esteem it had long struggled to attain from the broader specialty finance sector.

"He put so much energy into creating an organization for alternative lenders like ourselves to be able to come together, share ideas, network, learn and be recognized throughout the entire commercial finance world," Shu says.

Advocate, Educate, Escalate

The IFA of today is not the same as the IFA of 1999, obviously, but Goldberg did much more than add members over the years. The IFA currently has chapters in Canada,

the Northeast, the Midwest, Southern California, the Southeast and Texas, with its reach expanding beyond those realms to other countries, making it a truly international organization.

Oscar Rombolà, managing director of eCapital and an advisory board member of the IFA, worked with Goldberg to launch the Canadian chapter of the IFA after attending his first IFA conference in 2006.

"We wanted to create a true forum for members and colleagues in the industry where we can talk about common issues," Rombolà says. "Bert's support and advice was greatly appreciated; we were threading uncharted waters."

In addition to new chapters, Goldberg also expanded the reach of the IFA to ensure it not only provided resources but protection for the factoring industry. Following the Great Recession, Goldberg and other members of the IFA's leadership formed the American Factoring Association, giving members of the factoring community a voice in national politics.

"Bert came up with the idea of a group for advocacy and the purpose would be to represent the members of the International Factoring Association," Allen Frederic, managing director of corporate finance for Infinity Financial Group and a former president of the AFA, says. "It had two purposes. One was advocacy, but the second was education, to explain to lawmakers on the Hill what factoring was and why it was a benefit."

According to Frederic, taking an idea from gestation to execution was one of Goldberg's greatest strengths and a major reason why the IFA has been such a dynamic and evolving organization for so long.

Never Quit

Goldberg's life took a defining and tragic turn in 2012. He had always

maintained the active lifestyle of his youth, but in 2012, he suffered a severe injury while kitesurfing that left him paralyzed from the waist down. For someone like Goldberg, who didn't know the meaning of slowing down, the injury was a devastating blow but one he faced with unflinching courage and determination.

"Bert had more perseverance than anyone I have ever known or will know. He was also the smartest person I have ever known," Cheryl Goldberg says. "After he had to stay in bed for a year after his accident due to a wound infection, if he couldn't do something, he would think on it and think on it until he figured out how he could do it himself."

Although Bert Goldberg would need a wheelchair to move around for the rest of his life after the accident, he didn't stop doing what he loved. Up until his untimely death in 2021, Goldberg was still a regular swimmer and outdoorsman.

"Even though he was in pain every single day, he worked out to keep his strength up and would never let on that he had to deal with debilitating nerve pain every single day," Cheryl Goldberg says. "He has shown everyone that it is not what you have been dealt in life, but how you move forward. He traveled independently, ran a successful business, raised a smart daughter and was the best provider and husband I could ever ask for."

Bert Goldberg's reaction in the face of adversity was right in line with his personality. Most who knew Goldberg well describe him as calm, gentle, kind, upbeat, understanding, accommodating, driven, passionate, witty and rational, and that's just the short list. Such characteristics made him an ideal leader for the IFA and a devoted friend, husband and father.

Tragically, Goldberg was dealt another severe blow in 2021, as he was diagnosed with stage four

pancreatic cancer. The original diagnosis did not provide much hope, but Goldberg went to battle with the same dedication he approached every challenge and opportunity in his life. In a video shown at the IFA's Annual Conference in 2021, Goldberg shared the news with members of the association and many rallied around the cause by providing support financially and/or emotionally. The outpouring was only natural, as an industry that Goldberg made into a family looked to protect one of its own.

"When he informed us advisory board members first about his health situation, we were all floored," Shu says. "I'm going to miss his strength and leadership but also the gentle, kind, big-hearted person who never stopped working for all of us in the specialty finance community."

Goldberg fought long and hard to recover, but, just as when he suffered his kitesurfing accident nearly a decade before, he never let the rigors of the process change who he was or how he viewed the world.

Kurtz had the chance to spend some time with Goldberg before he passed in November of last year. The two friends, who met for the first time more than 20 years earlier, took a long stroll on a bike path near Goldberg's home on the Central Coast of California. As Kurtz describes, Goldberg still pushed himself up every incline and then went flying back down them with a smile on his face.

"He knew what his chances were and where he was with his treatment and how long," Kurtz says. "And he was just able to face it with dignity, and he was emotional, but he said he felt he lived a good life, and he had no regrets." •



Everyone in the factoring community owes a debt of gratitude to the late Bert Goldberg for everything he did to help the industry flourish. *Commercial Factor* reached out to several of Goldberg's closest friends and confidants to share what he meant to them.

STEVEN N. KURTZ, ESQ.,

*Partner, Levinson Arshonsky & Kurtz, LLP
Co-General Counsel, International Factoring Association*

It's both difficult and therapeutic to write a memorial about a close friend of more than 20 years. It's sad because I really miss him, but his memories and friendship will always bring me a smile.

I first met Bert in 2001, a little before the IFA conference in Scottsdale, AZ. We made an instant connection at that conference and our relationship morphed from meeting a really cool dude that I liked to becoming a dear friend. I am eternally grateful for Bert giving me a chance and essentially making my career.

REMEMBERING

DEAN LANDIS

President, Entrepreneur Growth Capital

I met Bert when I began using Distinctive Solutions software, which I am guessing was about 1991 or 1992. He had this easygoing way about him, and although at the time it was a vendor/client relationship, there was always a deep-rooted caring side to him. He wanted to help me, my company and everyone in the industry. It was no wonder that he left software sales to start a trade association. He already knew all the players, we all really liked him and he started something from nothing. He was a true entrepreneur.

My first IFA conference was in New Orleans. I remember because my wife, who was several months pregnant, came along. As always,

Bert was wearing many hats, not the least of which was helping my wife, who fainted while exercising at one point during the event.

Bert was smart, kind, generous and tireless. He wanted everyone to succeed and always put others' interests before his own. He created an industry trade group from nothing and turned it into a huge success. For people like me who straddled both the ABL and factoring industries, I always felt most at home with my IFA colleagues. He served as our leader, our linchpin and our clearinghouse and always did so with a gentle demeanor and a heartfelt smile.

I am so happy and proud of Bert for turning the IFA into such a success. This was no easy task given the diversity and strong opinions

of its membership. It is probably one of the few associations whose members unanimously cherish their organization. This came from our friendship, admiration and gratitude toward Bert. After all, there were a bunch of us that entered the factoring industry in the early '90s and professionally grew up together. Over the years, we weathered a lot of storms together, shared a lot of stories, made our way up the ladder and/or started something on our own.

To me, Bert represented the best of people. He got along with everyone and had everyone's interests at heart. When he had his accident, he never felt sorry for himself and maintained the smiling demeanor that everyone knew. Even when faced with the fight for his life, he was a profile in courage. •

Bert was a lot of things to different people. For some, he was a friendly face seen once a year. To others, he was a business match maker, career builder, tech support, and for many others, he was a deeply cherished friend. Bert is responsible for building a large community and legitimizing an industry that was on the outer fringes. Although imitated by others in the business world, Bert could never be duplicated and was always steps ahead of his competition.

Bert's favorite sport before his accident was kitesurfing. Bert's passion for this sport reflects a combination of high intelligence, focus, technical skills, Zen-like calm and a sense of

humor – which was Bert's essence. Bert used to chide me all the time and try to get me to do this crazy sport. I received many a call to let me know that Bert reserved a board and lesson in Pismo Beach, CA, and that I need to come up that very instant.

I tried it - my first and only time - after an IFA conference at Coronado Island, CA. Kitesurfing requires all kinds of mental and physical attributes that are way beyond most peoples' abilities, but Bert was an expert.

Bert knew how to persevere. After being paralyzed from the waist down after a kitesurfing accident, he

never got discouraged, worked hard at his recovery and continued to lead a good and full life. Then, in the spring of 2021, he was diagnosed with late-stage pancreatic cancer and had to focus on therapy. While the prospects for recovery were admittedly bleak, Bert continued to try.

Bert has stated multiple times that he did not regret a single thing. As things got closer to the end and he was barely able to text, he still was positive and uplifting. Bert passed the day preceding Chanukah 2021 and will be deeply missed, but his memory and everything that he built will always remain. •

BERT GOLDBERG

GREG SALOMON

President, Oxygen Funding

Some people do their jobs well, but some people go beyond making it a nine-to-five mentality and do jobs they like and are intentional about it. Bert was one of those people. When you meet that rare kind of person, you gravitate toward them - and when they're gone, you miss them all the more because they're so difficult to replace.

Bert was definitely someone I gravitated toward, both for the things we had in common and the things we didn't. I'd often go visit him in San Luis Obispo, CA, near the IFA headquarters, and spend time with Bert and his wife, Cheryl. I'm a Southern California guy myself, so we formed a nice little friendship and made lots of great (and funny) memories over the years.

Bert meant a lot to people besides just me, especially in the factoring industry. I don't know if the factoring industry would be the tight-knight community it is today without somebody like him bringing us under one umbrella to be purposeful and ethically driven. He led with all the qualities you'd want in a leader. He was even-tempered, determined, purposeful, dependable, genuine and affable. He wasn't someone that felt like he needed to shout to get attention. He also didn't like conflict or drama, so the fact that he bridged the gap between so many competitors is a testament to how effective he was as a leader.

Bert was ethically driven to hold industry leaders to a higher standard of doing business the right way. The industry has probably grown 20 times since Bert started the IFA,

yet our standards of working with each other and enjoying competitive balance has remained through his guidance.

Bert loved what the IFA stood for and made good relationships with so many of us out of his genuine interest in people and the lending we do for business owners and entrepreneurs. When it came down to it, Bert was a force for good, both for the factoring business and in life overall. He just wanted to make things better, do the right thing and keep improving without ever getting complacent. I'm going to miss him for that along with the friendship we shared and all he did to help every single person in the factoring industry. •

GLEN SHU

President, Bay View Funding

President, Specialty Finance Group, Heritage Bank of Commerce

I knew Bert for more than 20 years and considered him both a friend and a well-respected colleague. He was kind, thoughtful and genuinely caring; his door was always open and you could call him anytime to discuss anything.

I remember being on conference calls with Bert and he just had a way of creating a positive and inviting environment that embraced everyone's perspective so nobody felt threatened or intimidated when sharing their ideas. He put so much of his own energy into creating those types of spaces all throughout the IFA so alternative lenders like factors and others had a place to come together, share ideas, network and learn from one another. Even more impressive was that he successfully brought competitors together to work in a collaborative environment for the betterment of the industry. This was one of Bert's many achievements, which, in my view, strengthened our industry and allowed us to gain increased respect and recognition throughout the commercial finance world.

I'm going to miss his strength and leadership, but also the gentle, kind, big-hearted person who never stopped working for all of us in the specialty finance community. •

COLE HARMONSON

Co-Founder and CEO, Dare Capital

Bert had this magnetic quality about him that could bring people together, even folks like us in the factoring industry who can be maverick types and not play well with others. That ability was his superpower because he could be Switzerland and find common ground and a shared vision for the factoring industry when there wasn't one before.

When Bert called you, it was impossible to say no to whatever he needed, and that wasn't because he was coercive. He was just so subtle in the way that he brought folks together. And because of his dedication to every member of the industry, you always wanted to help him out. That subtle approach didn't mean he didn't have a strong presence, because he definitely did, but he still managed to always be gentle and accommodating so that you felt comfortable with him, especially since he was always fully present in any conversation he had. And when you spoke with Bert, not only did you feel like he was giving you his full attention, but he had the ability to draw you in and to communicate his point with strength without being overbearing.

His ability to be more neutral or to take a softer approach is something I learned from and it has really helped me in my professional life. You don't always have to take strong, unflinching positions outside of advocating for your customers. He always kept his focus on the user experience and the benefits of collaboration. That was an underrated skill of his and has definitely helped me in my journey as an entrepreneur and a leader. I wouldn't have learned how to approach business that way without Bert.

Bert's legacy will be what he created through the art of bringing folks together and remaining focused on supporting the factoring industry. He's going to be missed. •

ALLEN FREDERIC

Managing Director – Corporate Finance, Infinity Financial Group

Over the last 20 years, Bert became one of my closest friends, both in and outside of the factoring industry. We would regularly speak on the phone, with the calls often starting with conversations about the industry or the IFA, but we'd eventually find 30 or 40 minutes had passed as we got to joking and laughing and reminiscing about the fun we had over the years, particularly the many dinners we shared while traveling for IFA events.

Bert was the happiest person I've ever known. He never got down or depressed, even in the face of adversity. He could always find humor during intense situations, which he faced quite a bit of while leading the IFA, since members might call and yell at him or complain about something. To his credit, Bert would always take it in stride and listen. I never saw him get mad or lose his cool. In addition to his loving and joyful personality, he was an exceptionally loyal person – he'd do anything for anybody. When you were with Bert, he would always be talking about his wife, Cheryl, and his daughter, Maleah. He was a great, great family person.

As the first president of the American Factoring Association, I got to work pretty closely with Bert and see how he built the IFA from the ground up. I really consider Bert the father of recourse factoring because before him, there wasn't any sort of association like the IFA. We didn't have schools, meetings, networking events or any of that stuff before Bert. And that all started with an idea. That's the way Bert was. He could take an idea and make it a reality.

On a professional level, I feel like we all lost the greatest champion for our industry that we've ever had, but on a personal level, I feel like a lost a brother. I'm so thankful Bert was in my life. •

DEBRA ZUKONIK

*Co-Founder and Chief Credit Officer,
Dare Capital*

Most of my friends outside of factoring know I essentially lend money to companies, but thanks to Bert, I have an entire network of friends who understand and respect the stress and risk of what we do. Bert was invested in making sure we all had that community to turn to in good times and bad. He brought us all together and helped us learn from each other, forging lifelong relationships between competitors and partners alike.

When Bert first started a user group for Distinctive Solutions in the 1990s, I was fortunate to be able to

attend one – and it changed my life! Those user groups eventually grew and morphed into what we now know as the IFA. I don't think even Bert envisioned what the association would become and the lives it would touch. He just kept bringing us together, listening to our needs and fulfilling them until it became the powerful force it is today.

By continuing to build the IFA, Bert gave us all in the factoring industry the priceless gift of community, as we now have the opportunity to meet and build lasting relationships with factors across the United States and other parts of the globe. As I think about the enduring relationships and the amazing opportunities I would never have had without the

IFA, I am so very, very grateful for the man who built it. I know my life would not have been as rich and rewarding without the relationships made possible through the association that Bert built.

I had the pleasure of knowing Bert for more than 25 years and, just like many of you reading this, I was brokenhearted to learn of his illness and untimely passing. He was one of the strongest men I've ever known, both in body and character. I will certainly miss him for all he did for the factoring community, but I will miss him most as one of my dearest friends.

I'm so thankful Bert was in my life. •

OSCAR ROMBOLÀ

Managing Director, eCapital

Bert and I started working on my idea of opening the first IFA chapter to be located in Canada way back in 2008. He provided me with all the support, experience and knowledge with regards to dealing with IFA members. We discussed tons of things and, ultimately, Bert told me to "go and do it."

We wanted to create a true forum for members and colleagues in the industry where we can talk about common issues. Bert's support and advice was greatly appreciated, as we were treading in uncharted waters. Moving forward, we hold eight meetings a year, one social golf event and one end-of-the-year celebration. We have become a source of education as well as an advisory source to new factors in Canada and to our U.S. friends coming into the Canadian market.

Over the years, Bert has provided me the opportunity of participating on the IFA Advisory Board as well as running Canadian sessions at the IFA Annual Conference. Bert also gave me the inspiration and support to continue to promote the industry beyond borders when he

introduced me to a Chinese delegation, and as a result, the idea of chapters has expanded to China as well. This type of cross-border talent makes the association truly international. Bert understood the potential in bridging those borders.

Bert brought the factoring industry together in a manner rarely found in professionals. Always considering alternatives to challenging situations, Bert brought reason and constructive solutions to every problem. Bert and his team built the industry, and with his own personal challenges, he showed how challenges can be also opportunities. Bert's tenacity, hard work and devotion to his work provided me the inspiration to continue to grow the Canadian chapter throughout the years. I will miss his demeanor and calm, strong, rational way of looking at challenges. When you were in a meeting with Bert, his tone and style used to calm the group in an efficient and firm way. He taught us all the importance of keeping the industry together, promoting education, networking and friendship to protect our companies, our practices and our growth. •

ATTRACTING AND RETAINING TALENT IN THE AGE OF THE 'GREAT RESIGNATION'

Janice Fox, senior vice president of human resources at Triumph Business Capital, sat down with *Commercial Factor* to discuss the current state of recruiting and retaining talent in the factoring industry. Detailing steps your company can take today, Fox shares what works and what is on the next page for this evolving industry amid changing politics, economics and identities.



A white rectangular sign with the word "EXIT" written in large, bold, red capital letters. The sign is positioned in the upper left quadrant of the page, set against a light teal background that features a stylized white cloud graphic at the top left. Below the sign is a dark grey vertical bar that runs down the left side of the page, ending in a decorative gear-like graphic at the bottom left corner.

Hiring and retaining talent has become a larger challenge than in previous years in many industries, including the factoring sector. In fact, Janice Fox, senior vice president of human resources at Triumph Business Capital, who will participate in a panel on employee acquisition and retention during the IFA's Annual Conference this year, says we are in an environment she's never seen before in her 25 years of experience. Against such a backdrop, Fox spoke with *Commercial Factor* about what it takes for companies to remain competitive and effective during the recruiting and hiring process.

How has the recent disruption in the labor market affected the factoring industry?

JANICE FOX: I think it's forcing us to rethink our current recruiting and retention strategy. We're all having to rewrite our HR playbook, so to speak. A lot of these practices that we've been doing for years and years are no longer going to be applicable in today's landscape. Gone are the days where we could ask applicants to fill out lengthy applications and come in multiple times for interviews and complete lengthy assessments. We're going to have to move quickly on our strong candidates because they're communicating with several companies and have multiple offers coming in at the same time. Candidates are very aware of the market right now and that they are in the driver's seat. They're forcing companies to relook at their current practices and approach recruiting a little differently.

Are there specific roles that are becoming harder to staff than others in factoring? Why do you think that is?

FOX: We are struggling in the information technology space,

specifically with our developers, engineers and infrastructure positions. These have become our hardest-to-fill positions in a highly competitive market. Factors, companies outside of our industry and even agencies that specialize in IT recruiting are struggling to get a pool of strong applicants. When you do identify potential hires, you need to be able to act quickly with a competitive compensation and benefits package. In such a competitive market and with recruiters reaching out to your top talent, a positive recruiting and onboarding experience, along with competitive pay, will have a strong impact. First impressions will make a big difference.

Outside of a few hard-to-fill positions, we still have a steady flow of applications. They do not all have factoring, transportation or ABL experience, but people are applying and looking for better opportunities. Because these applicants are applying to multiple jobs and considering multiple offers, building relationships with candidates and providing a first-class recruiting and onboarding experience will separate us from the competition.

Some have called recent labor unrest the "Great Resignation," while a recent NPR article labeled it the "Great Re-Negotiation." Which label do you think is more fitting and why?

FOX: It really started as the Great Resignation, as we were all forced to work from home and, for some companies, there were furloughs and terminations. This allowed us the opportunity to reflect on our current situation and evaluate our future career path. Now, as people are starting to come back to work, they are being very selective. They are looking for better wages, stronger benefits and remote or

flexible work hours, making it the Great Re-Negotiation.

During this time of reflection, some have decided to go back to school, take an early retirement or switch careers and industries altogether. As employees navigate their post-pandemic world, it is inevitable that our workforce is going to look very different. Companies are being challenged to equip themselves for these changes and be able to consider flexible options and meaningful opportunities for their current and future employees.

We've seen uneven reports about recent labor gains. The Labor Department's January jobs report was strong, with companies adding 467,000 jobs, while ADP reported that private payrolls fell by 301,000 in January. What do you think this tells us about the job market?

FOX: If the CDC revises its guidelines, if we continue in this downward trend in COVID-19 cases, more people will come back into the workplace and the abundance of open positions will get filled. But as mentioned earlier, I do think it's going to look very different. Younger workers may be the first to return and lead the way. It has also been predicted that we may lose a significant number of our baby boomers, or they may be slower to return. They're going to want to see what the workplace is going to look like going forward, specifically with flexibility with their work schedules.

For factors looking to hire in this landscape, what are the critical components to keep in mind?

FOX: One of the things that we have done at Triumph Business Capital within the last year is start looking outside of the factoring industry for our applicant pool. Traditionally, we have leaned towards transportation, ABL or factoring experience. We know we can teach factoring and find the competences that we

need, such as customer service, critical thinking and leadership skills, outside of the factoring world.

We also need to be creative in the way we are hiring. Our recruiters have become salespeople for our company. They're building relationships with applicants and staying in close contact with them as we work through the hiring process.

Retention is clearly more of a challenge than ever before. How can factors ensure they keep their best employees engaged?

FOX: Timely recruiting, hiring and onboarding of applicants is critical, as we have experienced significant growth this year. However, retaining our employees is going to be just as important and challenging. If somebody is not satisfied in their role or with the company, there are too many opportunities and it's too easy for them to find something else.

For this reason, allowing remote or flexible scheduling should become a part of the strategic conversation. We have also taken a hard look at our manager training. Managing in a remote or hybrid environment is very different and can be challenging. We are slowly moving toward a model of 10 to 12 employees for every manager. When you're asked to manage flexible schedules, having fewer team members is going to be very important to ensure employee engagement and productivity does not suffer. Larger companies are creating culture committees to partner with management and focus solely on employee engagement.

Have there been historical factors or challenges that have limited hiring and recruiting in the factoring industry before? If so, what are they and how can firms think outside the box to ensure they are attracting the best talent?

FOX: I've been doing recruiting and human resources for about 25 years. I have never experienced the hiring

and retention challenges companies are facing right now.

Pre-pandemic, we would interview five to 10 people for a position and pick the best qualified candidate, make an offer and move through the hiring process with ease. Now, you can expect candidates applying for positions at all levels to negotiate pay, benefits and flexible scheduling. In the event the negotiations don't end in a hire, keeping your applicant pool warm can save your recruiters from having to start the recruiting process over and reduce your time-to-fill matrix.

A conversation about improving hiring and recruiting strategies must incorporate diversity, equity and inclusion. How can companies ensure they are not only attracting but also providing avenues for advancement and success for a diverse range of candidates?

FOX: I'm a big believer that the only way to ensure that you have a diverse, equitable and inclusive workforce is to measure your success and have a plan in place for improvement. This is a great time to take a look at your DE&I plan and set goals. Companies that are embracing the hybrid and remote environment are now able to expand their applicant pool. I feel like this is going to provide some great opportunities for diversity in the workplace. Creating a recruiting plan that is intentional about sourcing for talent in underrepresented areas puts you ahead of the competition and strengthens your workforce. With staffing trends, we should no longer be waiting for applicants to come to us. •

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AFA Keeps Fighting for the Factoring Industry

The American Factoring Association is hard at work for members of the factoring industry on many fronts, including proposed regulations, disclosures and Small Business Administration subordinations.

State Disclosure Requirements

NEW YORK: Legislation was enacted in 2020 and an implementing regulation was proposed in September 2021 but not finalized. The AFA submitted a comment letter on the proposed regulation explaining why compliance is difficult for the factoring industry and requesting certain changes. The New York Department of Financial Services recently said it will likely issue a revised regulation for further

comment. New York also currently has pending legislation that would have serious consequences for factors doing business in New York, regardless of whether they have a physical presence in the state or not, including licensing requirements, examination authority, agency approval for changes in ownership and reporting requirements.

CALIFORNIA: Legislation was enacted in 2018 and an implementing regulation has been proposed but not finalized. Rulemaking is in the final stage and the final rule should be released soon. The AFA submitted several comment letters to the California Department of Financial Protection

and Innovation during the lengthy rulemaking process outlining issues of concern for the factoring industry. States such as Connecticut, Maryland, Missouri, Mississippi, New Jersey, North Carolina and Utah have introduced legislation for customer disclosures and/or licensing/registration requirements, which would require a factor to register or obtain a license with a state agency and potentially subject it to oversight.

Federal Disclosure Regulation

The Small Business Lending Disclosure Act of 2021 (H.R. 6054) would require all commercial financing providers (including factors) to disclose key rates and terms, primarily to create a universal disclosure of APR. Since factors charge a fee and not an interest rate, this will be difficult for regulators to implement for the industry. The AFA is also concerned the regulation would not offer full preemption of state disclosure laws. However, the bill is not expected to make it past the House of Representatives.

SBA EIDL Subordination

The AFA, through its lobbyist firm, Jones Walker, is working with the SBA to make it aware of the consequences created by UCC filings for the SBA's COVID-19 Economic Injury Disaster Loan (EIDL) program. The AFA has requested the SBA's assistance in establishing a uniform subordination agreement between the SBA and the factoring industry for EIDLs and other similar types of SBA loan programs.

The AFA asked for a few key changes to the current SBA subordination agreement to make it workable from the factoring industry's standpoint, including:

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- **THE IFA's ANNUAL CONFERENCE** is the world's largest event for Factors, Asset Based Lenders & Supply Chain Finance Companies.
- **CERTIFIED ACCOUNT EXECUTIVE IN FACTORING (CAEF)** designation is the first professional certification of its kind.
- **EDUCATION**, training courses, meetings, webinars & relevant events for the Factoring Industry.
- **DISCUSSIONS, MEETINGS & FORUMS** Access to the IFA Member Community Discussion Forum.
- **STORE** - Purchase Factoring books, forms, reports, webinars and more.
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- The SBA's current form only subordinates the SBA's lien with respect to accounts receivable and invoices. The AFA requested this be modified to also include inventory, general intangibles and the proceeds thereof relating to such accounts receivable.
- The AFA also requested adding language to clarify the SBA will subordinate in favor of the factor a first priority ownership interest in accounts the factor purchases as well as a first priority security interest in the subordinated collateral.
- The SBA's current form requires a factor to provide the SBA with at

least 30 days written notice before taking any action due to a default by a client under a factoring arrangement, including any foreclosure action. The AFA requested language be included making it clear that factors may continue exercising their right to collect on accounts after an event of default and apply proceeds thereof to satisfy a client's obligations under the factoring arrangement and also make clear the factor does not have to wait 30 days to exercise its rights in the subordinated collateral if it reasonably believes such a delay is likely to decrease the value of the subordinated collateral or otherwise impair its ability to collect the subordinated collateral.

Donation Goals for 2022

The AFA's donation goal for 2022 is \$220,000 and the AFA has no revenue source except donations, so it is up to AFA and IFA members to contribute so the AFA can continue to support and represent the interests of factors in regard to state and federal regulations and oversight. •

The goal of the AFA is to increase membership and financial support from every IFA member. We urge every IFA member to contribute to the AFA, as we are in the midst of our annual membership fund drive. Currently, we have Bronze Members, who have contributed as little as \$500, up to Diamond Members, who have contributed in excess of \$10,000. This is a very inexpensive insurance policy to help protect our industry from needless regulation which will be both costly and prohibitive. Please consider supporting the American Factoring Association.



2022 Members

As of 3/16/22

Diamond Member (\$10,000+)

Accord Financial, Inc.
Apex Capital Corp
eCapital Corp.
Great Plains Transportation Services, Inc.
Gulf Coast Business Credit
International Factoring Association
J D Factors
PRN Funding
Revolution Capital
Sallyport Commercial Finance, LLC
Sunbelt Finance
TBS Factoring Service, LLC
Triumph Business Capital
TXP Capital, LLC

Platinum (\$5,000-\$9,999)

12five Capital
Advance Partners
Alterna Capital Solutions, LLC
Breakout Capital
CapFlow Funding Group
Dare Capital
FSW Funding
Lenders Funding, LLC
nFusion Capital, LLC
Republic Business Credit, LLC
Southstar Capital
Truckstop Factoring
Viva Capital Funding, LLC

Gold (\$2,500-\$4,999)

American Funding Solutions LLC
AR Funding, Inc.
Assist Financial Services, Inc.
Charter Capital Holdings LP

Eagle Business Credit LLC
ENGS Commercial Capital
FirstLine Funding Group
Gateway Commercial Finance
Heritage Bank of Commerce/
Bay View Funding
KORE Capital Corporation
Levinson, Arshonsky & Kurtz, LLP
Match Factors, Inc.
Mazon Associates, Inc.
Orange Commercial Credit
Porter Capital
Robbins DiMonte, Ltd.
Sekady Capital
SevenOaks Capital Associates, LLC
Single Point Capital
TAB Bank

Silver (\$1,000-\$2,499)

ACS Factors
Advance Global Capital Ltd
Advisory Financial Services LLC
Amerisource Funding, Inc.
Business Finance Corporation
Capital City Bank
Capital Solutions Bancorp LLC
Commercial Business Funding Corporation
Commercial Finance Consultants
Commission Express National, Inc.
Commonwealth Capital, LLC
CoreFund Capital, LLC
ei Funding
FactoringClub
Factor King, LLC
Gary M. Krasna, P.A.

Greenback Capital
J.O.B.E. Services, Inc.
K.W. Receivables
LDI Growth Partners, LLC
Lookout Capital
Nationwide Capital Funding, Inc.
New Century Financial
Prestige Capital Finance, LLC
Primary Funding Corporation
QC Capital Solutions
Rosenthal & Rosenthal, Inc.
Schober & Schober, PC
Sky Business Credit, LLC
Southwest Commercial Capital, Inc.
Steelhead Finance
The Hamilton Group

Bronze (\$500-\$999)

Bankers Factoring LLC
Camel Financial, Inc.
Cash Flow Resources, LLC
Chesapeake Bank
Concept Financial Group
Entrepreneur Growth Capital
Exchange Capital Corporation
Franklin Capital Network
Integrated Logistics & Associates
Little Mountain Logistics LLC
PLEX Capital, LLC
The Collection Law Group, Inc.
Yankton Factoring Inc.

Other (Under \$500)

Plus Funding Group
Stonebridge Financial Services, Inc.
TradeGate Finance, Inc.



Our Preferred Vendors have undergone a screening and evaluation process. When you contact the Preferred Vendors, you will need to indicate that you are an IFA member to receive your benefit.

If you offer a good or service to the Factoring Industry and are interested in applying for Preferred Vendor Status, please contact the IFA at 805-773-0011.

ASSOCIATIONS

The following trade associations offer member pricing for events attended by IFA members:

Commercial Factoring Expertise Committee of China (CFEC)
<http://cfec.org.cn>

FCI
www.fci.nl

World of Open Account (WOA)
<https://woa.community/>

BROKER

Rainstar Capital Group

Rainstar Capital Group is a multi-strategy private equity firm that makes direct investments and provides advisory debt capital. Rainstar partners with factoring firms who have clients seeking debt capital products separate from the factoring solution for growth needs. Through its multiple lending platforms with over 250 registered lenders, Rainstar provides factoring firms' clients debt financing product lines for commercial real estate, corporate finance, small business and equipment needs. Deal sizes are from \$10k to \$300M and all credit boxes covered!
 Kurt Nederveld • Kurt@rainstarcapitalgroup.com
 616-953-6036 • www.rainstarcapitalgroup.com

IFA Member Benefit: RAINSTAR CAPITAL GROUP WILL PAY IFA MEMBERSHIP DUES. (SEE IFA WEBSITE FOR FULL MEMBER BENEFITS DETAILS.)

COLLECTIONS

The Collection Law Group, Inc.

The Collection Law Group (TCLG) is a group of lawyers who collect past due commercial accounts receivables from businesses across the U.S. We provide commercial contingency collections services for finance and factors including: collection work and litigation work to collect monies due from finance and factor clients, guarantors and account debtors.
 Brad Magill • brmagill@tclginc.com
 888-304-4347 • www.tclginc.com

IFA Member Benefit: REDUCED FEE FROM OUR NORMAL 20% TO A 15% CONTINGENCY FEE. (SEE IFA WEBSITE FOR FULL MEMBER BENEFITS DETAILS.)

VeriCore

VeriCore is the pioneer of ZERO fee collections! A ZERO fee collection takes place when VeriCore compels the debtor to pay for the cost of collection. ZERO fee collections don't happen every time but many of the IFA members have already experienced ZERO fee collections over 100 times! VeriCore is a contingent, fully licensed and bonded agency with an A+ rating with the BBB and a strong focus on compliance. Our proprietary process is designed to create constant and methodical pressure on a debtor which compels them to prioritize you at the top of their AP list. We have a national and international presence and we would relish an opportunity to show you how good we truly are.

800-433-4903 x1162
 Chris Dawson • chris.dawson@vericore.com
www.vericore.com

IFA Member Benefit: CONTINGENCY RATE OF 22% OR WILL MATCH THE RATE OF ANY AGENCY THAT IS FULLY LICENSED.

CONSULTING

FactorHelp

FactorHelp, Inc. has come to be regarded as the factoring industry's premier resource provider. Their manuals, in use on every continent of the world, are setting the industry standard and their reputation as the one-call solution for factoring problems is growing. By consistently introducing innovative, viable products, vigilantly cultivating an extensive alliance of Strategic Partners and providing the professional expertise demanded of an industry leader, FactorHelp strives to maintain its goal of providing the unparalleled service the factoring industry expects from a solutions partner.
 972-722-3700 • www.factorhelp.com

IFA Member Benefit: RECEIVE 10% OFF ON CONSULTING FEES & 5% OFF ON ALL FACTORHELP PRODUCTS IN THE IFA STORE.

CREDIT INFORMATION

Ansonia, An Equifax Company

Ansonia is your next-generation business credit and collections solution offering decisioning tools and over \$1.3 trillion in accounts receivable data from major industries across North America. 200+ factors and 70% of North American Truckload, LTL and 3PLs rely on Ansonia for innovative ways to manage debtors and fraud risk. As always, Ansonia delivers quality data, credit and collections solutions you can afford. Call us today to see why IFA members voted Ansonia their number one source for underwriting account debtors.
 855-ANSONIA • 855-267-6642
www.ansoniacreditdata.com

IFA Member Benefit: COMPLIMENTARY REVIEW OF YOUR PORTFOLIO'S RISK DISTRIBUTION. (SEE IFA WEBSITE FOR FULL MEMBER BENEFITS DETAILS.)

CREDIT CARD PROCESSING

Clarus Merchant Services

Clarus Merchant Services offers a custom program developed specifically for how the Factoring Industry processes credit card transactions. Our program provides detailed reporting that allows tracking of each invoice and fee transaction for easy account reconciliation with their customers and clients. We work with each member to ensure all processing costs are covered and that they are doing so within the guidelines of MasterCard/Visa. In addition, we provide IFA members direct access to their account manager for immediate response and support.
 David Powers • dave.powers@clarusdc.com
 540-222-3925 • www.clarusdc.com

IFA Member Benefit: PURCHASE THE CARDX PROGRAM & RECEIVE A ONE-TIME \$200 REBATE. (AFTER MEMBER PROCESSES A 1 MONTH USING THE PROGRAM.)

ePaymentAmerica

ePaymentAmerica is the nation's leading provider of merchant services for the factoring industry, offering IFA members exclusive benefits with our premier product. eFactorPay provides low-risk, high-return options for accepting credit cards, debit cards, ACH and eChecks as payment from your clients and their customers.
 901-385-5327 • www.epaymentamerica.com
factoring_program@epaymentamerica.com

IFA Member Benefit: NTERCHANGE PLUS PRICING* BUNDLED MONTHLY SERVICE FEE OF \$30.00 *BASED ON VOLUME/ TRANSACTION COUNT. (INCLUDES IRS REGULATORY COMPLIANCE, ACCOUNT MAINTENANCE, PCI COMPLIANCE, VIRTUAL GATEWAY & ONLINE MANAGEMENT TOOL.)

FUNDING

Haversine Funding

Haversine Funding helps commercial lenders fill funding gaps through participation programs, lender finance and growth capital funding. Our clients are factors, ABLs, inventory, purchase order and other commercial finance companies. Offer lines up to \$5MM for individual transactions and up to \$25MM for portfolio participations..
 Gen Merritt: gmmerritt@haversinefunding.com
 469-360-9712 • www.haversinefunding.com

IFA Member Benefit: SPONSORED IFA CONFERENCE OR COURSE REGISTRATION FEE. (FOR TRANSACTIONS EQUAL TO FUNDS EMPLOYED AVERAGING \$5 MILLION DURING THE PREVIOUS 6 MONTHS. MEMBER MAY RECEIVE ONE FREE ADMISSION PER YEAR.)

Garrington Group of Companies

Garrington Group of Companies is designed around the idea that when loan origination, underwriting and access to capital are holistically integrated, vast potential can be unlocked to support agile growth. With \$4 Billion deployed across North America since inception, combined active loans totaling over \$400 million and 300 financing facilities in 39 states and provinces, we're one of North America's fastest growing business support providers.
 Robert Thompson So • 866-272-3704
www.garringtongroupco.com
rts@linefinancialservices.com

• Acquisition of A/R portfolios from Factors exiting the industry. **IFA Member Benefit: TRAILER FEES FOR THE LIFE OF THE ACQUIRED ACCOUNTS.**

• Soliciting Factors to join the Liquid Capital network to gain access to additional capital, a robust range of working capital and trade finance products, extensive marketing and back office support. **IFA Member Benefit: PAID IFA MEMBERSHIP OR ANNUAL CONFERENCE REGISTRATION FEE FOR THE NEXT YEAR.**

• ABL referrals. **IFA Member Benefit: ORIGINATION FEE FOR REFERRING FACTOR AND THE OPPORTUNITY TO PARTICIPATE IN THE FUNDING.**

MARKETING

50 Words LLC

50 Words, LLC is a marketing outsource firm for companies that either do not have a marketing department or that need to add more manpower to their existing marketing team. They serve as your dedicated marketing department.
610-631-5702 • www.50wordsmarketing.com

IFA Member Benefit: IFA MEMBERS WILL RECEIVE FIVE FREE HOURS OF MARKETING SERVICES WITH THE PURCHASE OF ANY MARKETING SERVICE. (OFFER TO NEW CLIENTS ONLY.)

RECRUITMENT AGENCY

Commercial Finance Consultants

Established in 2002, CFC is the premier provider of human talent to the factoring industry. CFC's goal is to provide their clients with the best available human capital and the most current industry information to assist in accomplishing their growth potential.
469-402-4000 • www.searchcfc.com
crains@searchcfc.com

IFA Member Benefit: IFA MEMBERS RECEIVE AN ADDITIONAL 60 DAYS ADDED TO THE GUARANTEE ON ALL PLACEMENTS.

SOFTWARE

Artis Trade Systems

Artis Trade Systems offers ArtisPay, the revolutionary Supply Chain Finance (SCF) app that allows banks and lenders to provide buyers and suppliers with a flexible, customizable, easy-to-use enterprise-grade software. ArtisPay is a fully cloud-based software-as-a-service (SaaS) that can connect to any ERP/GL/TMS. Offer ArtisPay today to monetize accounts payable and/or to manage offset risk (easily track your clients Accounts Payable).
Jamie Clemons • 480-250-8186
www.artistrade.net

IFA Member Benefit: IFA MEMBERS RECEIVE A 33% DISCOUNT ON THE REGISTRATION FEE.

Decipher

Decipher is the leading provider of front and middle office automation technology for factoring companies. Our Factoring Origination System streamlines client application, onboarding, underwriting, closing and document management. The platform includes 20+ APIs integrating credit bureaus, bank account verification, accounting system connections, UCC search and file, tax monitoring, and electronic signature, and offers automatic financial spreading, bank account analysis and monitoring as well as risk evaluation and auto approval with your criteria. Clients streamline the entire process from application to closing and provide a better customer experience with less risk. Move clients to approval in record time and achieve a competitive advantage.
301-710-5447 • www.deciphercredit.com
info@deciphercredit.com

IFA Member Benefit: 10% NEW CLIENT DISCOUNT AND 5% EXISTING CLIENT DISCOUNT OFF ANNUAL SUBSCRIPTION FEE.

EQ Riskfactor

EQ Riskfactor. The leading provider of risk management and fraud analytics software for the global commercial finance market, including factoring organizations, banks and alternative lenders. Our risk management technology uses automation to identify potential frauds along with advanced analytics. The technology highlights unusual activity so lenders can better investigate fraud and reduce risk. The tools also help lenders eliminate manual processes, saving time and money.

Aaron Hughes • aaron.hughes@equiniti.com
Melissa Havers • melissa.havers@equiniti.com
www.equinitiriskfactor.com
+44 1903 698600

IFA Member Benefit: RECEIVE FREE HOSTING WITH PURCHASE OF EQ RISKFACTOR. (WORTH UP TO \$5,000 DEPENDING ON NUMBER OF USERS & SIZE OF FIRM.)

FactorCloud

FactorCloud is a complete invoice factoring platform allowing growing factors to increase efficiencies, scale operations and lower risk. Highly configurable and permissions-based, FactorCloud allows factors to meet the changing needs of the market while improving portfolio performance. New: Transportation factors can easily verify loads with our TruckerCloud integration.
888-888-0694 • www.factorcloud.com
hello@factorcloud.com

IFA Member Benefit: 10% DISCOUNT ON SUBSCRIPTION FEE.

FactorFox

FactorFox has provided factoring software to small, medium and large companies for over 15 years. FactorFox is beautifully designed, user friendly and powerful. With every line of code written, we challenge the status quo. We are continually finding ways to mitigate risk to give our factors a competitive advantage in the factoring industry.
877-890-1897 • www.factorfox.com

IFA Member Benefit: 1 MONTH FREE TRIAL FOR ALL USERS, IFA MEMBERS ALSO RECEIVE AN ADDITIONAL MONTH TO TRY THE COMPLETE SOFTWARE.

FactorView

FactorView is a web-based factoring program that allows easy access to your data through your PC, Mac, tablet and even smart phone. Factorview is designed for new companies, as well as established factors with employees in numerous locations.
Mike Youngberg • mike@factorview.com
888-909-9384 • www.factorview.com

IFA Member Benefit: COMPLIMENTARY IMPORT OF CLIENTS, DEBTORS AND OPEN INVOICES FOR ALL NEW ACCOUNTS.

Finvoice

Finvoice offers traditional factoring companies and asset-based lenders a simple-to-use and comprehensive software solution to help them become a modern and efficient online lender. Finvoice came out of a passion to help small businesses who generate 67% of jobs and 50% of the World's GDP.
Andrew Bertolina
310-951-0596 • www.finvoice.com

IFA Member Benefit: COMPLIMENTARY LANDING PAGE REVIEW/OPTIMIZATION FOR DIGITAL CONVERSION. 15% OFF ON PRICING FOR 1ST YEAR.

ProfitStars®

ProfitStars® is an industry-leading provider of portfolio management systems for commercial finance, and offers a common framework for factoring, asset-based lending, inventory finance and lines of credit. Our dynamic Commercial Lending Center Suite™ incorporates all-digital loan origination, decisioning and portfolio management workflows that save time, improve accuracy and improve the overall borrowing experience.
thawkins@jackhenry.com
205-972-8900 • www.profitstars.com

IFA Member Benefit: 0% OFF NEW SOLUTIONS PRODUCT PURCHASE. For Members Who Are Currently Jack Henry Lending Customers: FREE 1-DAY FACTORSOFT REFRESHER COURSE, PER YEAR, AT THE TRAINING FACILITY IN BIRMINGHAM.

TriumphPay

TriumphPay is the only platform that connects brokers, factors, shippers and carriers through forward-thinking, frictionless payment solutions. The platform provides each party with the tools they need to increase automation, mitigate fraud and boost back-office productivity and efficiency. TriumphPay improves the payment experience at every stage, so stakeholders can focus on driving growth and building trusting relationships.
Melissa Forman • mforman@triumphpay.com
214-217-4540

IFA Member Benefit: 30 DAY TRIAL AND FREE IMPLEMENTATION.

TAX COMPLIANCE

Tax Guard

Tax Guard fills a critical gap in a commercial lender's credit risk management toolset with efficient, real-time and actionable insight into the true, non-public IRS tax compliance status of their prospects and clients. Our due diligence reports, tax compliance monitoring and resolution solutions support commercial lenders throughout every stage of the funding life-cycle.
303-953-6308 • www.tax-guard.com

IFA Member Benefit: IFA MEMBERS WILL RECEIVE TEN FREE IRS TAX RETURN TRANSCRIPTS WITHIN THE FIRST 30 DAYS OF SERVICE. (ONE TIME OFFER ALSO EXTENDED TO CURRENT IFA MEMBERS.)

UCC SEARCH

CSC

CSC® is an expert in UCC search, filing and monitoring for expirations and continuations, serving thousands of financial institutions, including many of the world's largest lenders – commercial banks, capital finance companies and factoring organizations that specialize in secured transactions. We are a global company capable of doing business wherever our clients are.
www.cscglobal.com • 866-403-5272
corpservices@cscglobal.com

IFA Member Benefit: 10% OFF ANY NEW OR EXISTING IFA MEMBER ON UCC SERVICES AS LONG AS THEY ARE NOT AN EXISTING CSC UCC CLIENT. IFA MEMBERS ALSO RECEIVE A \$500 DISCOUNT OFF THE ANNUAL SPRS SUBSCRIPTION FEE.*

*For members currently not using the SPRS service.

First Corporate Solutions

First Corporate Solutions. A full service public records provider specializing in the research, retrieval and filing of public records nationwide and internationally. Services include industry standards such as UCC, lien and litigation searching, UCC and corporate filing services, nationwide registered agent coverage and real property title searching, as well as state and county account monitoring designed specifically for Factors.
800-406-1577 • www.ficoso.com
info@ficoso.com

IFA Member Benefit: GET 10% OFF THE RETAIL RATES OF THE SIGNATURE STATE & COUNTY ACCOUNT MONITORING PRODUCT.

Wolters Kluwer Lien Solutions

Wolters Kluwer Lien Solutions is the nation's leader in UCC filing and public records search, lien management, debtor due diligence and life-of-loan risk management solutions. We work in partnership with our clients to streamline the lending cycle, mitigate risk, help ensure compliance and assist in serving end customers.
Robb Zurek • robb.zurek@wolterskluwer.com
281-728-3532 • www.liensolutions.com
IFA Member Benefit: 15% OFF ALL SEARCHES SUBMITTED VIA iLIEN.



The Ebb and Flow of Credit and Collections During the COVID-19 Pandemic

Evaluating credit and securing payments are rarely simple tasks, but during the first two years of the COVID-19 pandemic, these areas have become fraught with challenges. Emma Hart outlines how the credit and collections game has shifted and how factors and asset-based lenders like Sallyport Commercial Finance have adapted.

BY EMMA HART

Let's face it, evaluating credit will never be an exact science. We refer to multiple sources and make educated guesses as to how each credit will perform in our portfolios. Most times, that strategy is perfectly fine, especially if you are looking at strong performing companies with solid financials. However, the COVID-19 pandemic has turned everything upside down.

During the early days of the pandemic, traditionally solid industries were side-swiped with work-from-home edicts and mandatory shutdowns while governments tried to stop the spread of the virus. Some companies failed completely due to lockdowns, limited patronage and social distancing protocols. There were, however, some 'winners' who were able to take full advantage, particularly those in the home delivery sector or those who provided essentials like hand sanitizer and toilet paper.

With personal protective equipment in high demand, many businesses pivoted to this area, but this led to a huge amount of fraud, with

multi-million-dollar purchase orders abruptly cancelled by federal, state and local governments due to violations of child labor laws, poor working conditions overseas, counterfeit products or just because the massive influx of PPE meant it couldn't be distributed fast enough.

If all of that wasn't enough, the U.S. presidential administration changed hands less than a year into the pandemic and green energy became a focus. As such, private equity began to migrate from the traditional oil and gas sector to focus more on renewables, traditional energy companies merged and there was some industry consolidation, all of which contributed to mass layoffs.

The energy sector wasn't alone, but despite unemployment spiking, the tidal wave of bankruptcies many expected at the beginning of the pandemic has yet to materialize, even in the hospitality and retail sectors, which have been two of the most impacted industries. Staving off the bankruptcy wave was in large part a product of initiatives like the

Main Street Lending Program and the Paycheck Protection Program, as well as the support of investors. However, as government money has been used and the programs have ended, we are starting to see the true impact of the pandemic in the actual trading performances, net of PPP forgiveness.

Challenges with Traditional Credit Information

Factors and asset-based lenders have begun to once again see energy and chemical companies in their pipelines looking for financing. These debtors are not always well rated by credit rating bureaus such as D&B or Experian, and certainly not for the exposure generally. For public companies, factors and lenders can review 10-Qs or 10-Ks and look at publicly available information in the financial markets and information available from the SEC. In addition, credit insurers are gradually coming back into the space after seemingly exiting energy. At Sallyport Commercial Finance, we have moved forward

with a credit put option in place with one of our concentrated exposures. Additionally, with a very well-connected, traditionally energy-focused investor backing Sallyport, we lean on this investor for any information or personal connections it has that could give us an inside track on performance of some of these businesses. This has proved to be invaluable in determining credits, performance and collections.

Monitoring public bond yields and ratings can give factors and lenders some indication of market confidence, and while historic trends are not always indicative of future performance, you can also look at payment performance, verification and debtor concentration. Invariably, it is the strength (or lack thereof) of a client that determines risk. Determining each client's ability to perform while being reticent due to the concentration of a particular account debtor is always a challenge, as is remaining acutely aware of the contractual nature of the businesses' relationships.

The Collections Undercurrent

It has certainly been an interesting two years for collections. Collections have always been a focus of mine, as that is where my career started many decades ago, and even in my current role, I still get excited to see collections hit our bank accounts daily. I still scan the deposits first thing every morning and am the first to communicate when a payment we've been waiting for comes in.

As the pandemic hit and non-essential businesses were forced to close or offer work-from-home options, an interesting dynamic developed. Collections slowed down dramatically, as accounts payable departments were no longer easy to contact because they were also working from home. It took time for some businesses to fully equip employees with the tools they

needed to effectively work, especially for those who had to juggle their daily routines along with baby-sitting and teaching (sometimes multiple) children.

For industries like retail and restaurants that were ordered to close completely early in the pandemic, how were they expected to pay their bills? Huge swathes of companies moved their payment terms to 90, 120 and even 180 days due to the uncertainty of the immediate future, and many also put a hold on releasing any payments. It was a perfect storm for delaying payments, as check signatories were not in the office and cash flow was squeezed.

For a factor and asset-based lender, this was not a sustainable business model. Portfolios were aging out and clients' volumes were down, but their need for funds had not waned as they tried to keep their businesses open and staff paid. The knock-on effect of clients getting out of formula and drifting into an over-advanced position is it puts them at risk of falling out of a factor or lender's senior line's borrowing base. This meant factors and lenders had to get collections back to normal levels and quickly.

As an essential business, Sallyport made the decision to bring our operations people back to the office on a full-time basis as soon as possible. We implemented safety protocols and weekly COVID-19 testing, and we focused on reaching the accounts payable departments wherever they were to get to the top of their payments lists. We have lived by the adages of "he who shouts loudest, gets paid" and being the "squeaky wheel." We have made concessions where appropriate, but this has been a matter of our own business survival as well as that of our clients. Money flowing just one way out of our business is not a long-term strategy, and we have been able to very quickly turn that around.

Early on, our account executives engaged with customers to explain the potentially dire consequences and inequity of withholding payments (which were payable and, in some cases, past due) from small business clients who had already provided the goods and services for which they sought payment. We made payment plans with customers and utilized all methods of receiving payments available, and I may have sent the odd sarcasm-laced email to a couple of CFOs and CEOs of very large public companies that had the wherewithal to pay but were instead choosing to exploit the situation. It was survival of the fittest!

As a result, our portfolio effectively self-liquidated, which is exactly what it should do when you have a collectible portfolio. Our borrowing bases were not compromised, and volume began to return to our clients' businesses.

Through it all, if there's one thing the pandemic has highlighted, it's the virtue of making collection calls. Having a dialogue with a person is far more likely to result in a payment, even if its only a partial payment, than liaising by email. •



Emma Hart is the executive vice president of operations and senior credit officer of Sallyport

Commercial Finance. Hart has a tenure of more than 30 years in the commercial finance industry. Prior to helping to set up Sallyport Commercial Finance, she held the role of executive vice president of operations with Bibby Financial Services (CA), Inc. from 2008 to 2014. Prior to joining Bibby, Hart spent 20 years with Lloyds TSB Commercial Finance in the UK. She can be reached at 832-939-9450 or at ehart@sallyportcf.com.



The Dangers of the MCA Market Require Regulatory Action

Merchant cash advances are not inherently bad, but as the industry has boomed over the last decade, it has become the playground of nefarious funders. Grant Phillips gives a detailed history of the growth of the MCA market and explains why (and how) regulations must put it in check.

BY GRANT PHILLIPS, ESQ.

After the Great Recession, as a direct result of the housing debacle, banks reacted with a plethora of new internal regulations, making it almost impossible for the average small business to qualify for a business loan. In addition, government intervention to save the banking industry brought with it more regulations, making it exceedingly more difficult for small businesses to obtain financing. As such, the time was ripe for someone to address the lack of credit and lending to small businesses.

What arrived next was enormous growth in a previously obscure lending instrument, ubiquitously known as a merchant cash advance or MCA, a seemingly legal transaction whereby a lender is permitted to charge what ordinarily would be considered usurious interest without being guilty of breaking the law.

MCAs were neither proprietary nor patented when the Great Recession ended. In fact, its creation occurred more than a decade earlier, but there was a large increase in MCA origination in 2010, which can be attributed to the economic circumstances and fledging economy at that time. It was a perfect combination of circumstance and timing. Small business lending had all but dried up, demand for funding had risen sharply and the resulting turmoil presented both the conditions and timing necessary for the MCA industry to grow exponentially.

The industry has been booming ever since and because it has no regulation or barrier to entry, hundreds of participants have entered the MCA sphere. While many engage in deceptive lending practices together with other predatory abuses, including illegal collection methods, harassment and fraud, there are some participants that do follow the law. However, since many MCA lending scandals have sprung forth, states like New York are accumulating case law on MCAs and their legality.

However, sadly, many businesses have been destroyed because of these funding instruments. It is easy to fall prey to an MCA. After all, once a business is denied conventional financing or an SBA loan, they can become desperate and vulnerable to the non-stop barrage of cold caller sales people offering easy and quick money, creating a slippery slope.

MCA Origins

As previously stated, the MCA concept, while relatively new to small businesses in 2010, was in fact “invented” more than a decade earlier. Specifically, an individual by the name of Barbara S. Johnson is listed as the official inventor of split-funding, a system that allows for automatic splitting of funds received by credit card, with some going to

With such a landscape at hand, it's no wonder a litany of MCA providers has emerged. The lack of licensing, background checks, regulation and disclosures has made the MCA a predatory lender's favorite instrument. Where else can an investor receive an APR that exceeds 500% and for it to be legal?

an MCA funder and the remainder to the merchant. This act of repayment to an MCA funder from a single credit card processor lays the grounds for the MCA.

Johnson obtained a patent for the system in 1997 while running four Gymboree Playgroup & Music franchises. Unable to get working capital to fund a summer marketing campaign, Johnson wondered whether she could borrow against future credit card sales derived from parents bringing their kids back for fall classes. About a year later, Johnson and her husband founded Advance Me, an MCA funder. Later, her company would become CAN Capital.

What is an MCA?

In an MCA, a funder provides a small business with a lump sum of cash for the right (not guarantee) to receive a percentage of the businesses' future generated accounts receivable. The amount received by the funder in return is usually in excess of 100% when calculated as an APR.

Amazingly, the law currently permits this transaction, deeming the funding transaction one of purchasing future receivables and, therefore, not a loan. If it is not a loan, it is not governed by usury, and if there is no usury, the MCA funder is free to charge the small business whatever it so desires. This legal nuance is what permits an MCA from receiving what ordinarily would be deemed usurious interest, thereby allowing for the absurd and astronomical amounts of money required to be repaid by a small business to an MCA funder.

Designed to Prey

The MCA industry is designed to target and prey upon small businesses that need cash but can't get it, which is a common occurrence during economic downturns. Through heavy spending and a massive focus on solicitation and marketing, primarily via robotic cold calling performed by sales people known in the industry as ISOs (independent sales organizations), MCA providers repeatedly call business owners offering “deals” for business financing that are highly tempting but, more often than not, non-existent. The ISO space is competitive, and like MCA funders, no regulation exists to govern these brokers.

With such a landscape at hand, it's no wonder a litany of MCA providers has emerged. The lack of licensing, background checks, regulation and disclosures has made the MCA a predatory lender's favorite instrument. Where else can an investor receive an APR that exceeds 500% and for it to be legal?

Not a Loan

Let's briefly go over the differences between a traditional loan and an MCA. A traditional loan is repayable absolutely and gives no contingencies to the borrowing company to not pay. On the other hand, a true

MCA is not repayable absolutely and thus there are circumstances where the money provided by the MCA funder is not repayable.

The difference between traditional loans and MCAs is even more stark when it comes to interest payments. Pursuant to state regulations, a lender cannot charge interest that exceeds a state's usury laws. In New York, for example, the charging of interest in excess of 25%, when calculated as an APR, is illegal and considered criminal usury. However, the same law holds that if the funding instrument is structured as an MCA and refers to the transaction and the contract as the "purchase of the borrower's future receivables," there is no interest cap.

This is because, at present, the law holds that the purchase of future receivables, at a discount, is not considered a loan. If the instrument used to finance the business is not recognized as a loan by the law, the buyer of the receivables (lender or funder) can ask for a payback number of future receivables that ordinarily would breach usury when calculated as an APR. Moreover, an MCA payback is usually structured to be automatically debited from a business' account on a daily basis, meaning double dipping and unauthorized debits are par for the course.

The Wild West

As with most new markets, regulation has simply been unable to keep up with the revolutionary MCA industry and failed to rein in abuses. Accordingly, the MCA market has developed into an environment akin to the Wild West

Like most money-making bonanzas, abusers have created systematic practices designed to drain merchants of all revenues and hold them hostage in the event they cannot afford to make repayments. In addition to auto-debiting, MCAs

also uses tools like lock boxes, personal guarantees, absolute power of attorney and more.

Unfortunately, instead of facing increased scrutiny and new legislation, the MCA market has grown unregulated over the last decade, and even some publicly traded companies are entering the MCA world. Moreover, large credit card processors like Square, PayPal and Stripe are offering MCAs today, while Shopify and even Amazon have gotten into the MCA space. With their merchant's data readily available, it is particularly worrisome that conglomerate players such as this are involved too.

What about usury? Most states have usury laws on their books that set the maximum amount of interest you can charge on a loan. This number may vary depending on state, with several permitting MCAs but also having usury laws. However, as delineated earlier in this article, the law states that usury applies to a loan and not an MCA.

Changing the Regulations

It is imperative that legislation be passed to provide more protections to borrowers. Thankfully, New York is on the cusp, as it passed SB 5740 in 2021, with the bill expected to take effect in mid-2022. In addition, California has similar legislation on its books. SB 5740 requires MCA funders to disclose certain information about MCA terms to potential borrowers. This is a good start to reforming the space and limiting abuse. Too many businesses have been forced to shut down or file bankruptcy because of these insidious loans. The hope is SB 5740 will address many of the current abuses taking place in the MCA world.

Humbly, I believe courts also have a critical role to play in the fight against predatory lending abuses, including those perpetuated in MCAs. Just because a document

says "merchant cash advance" or "purchase of future receivables," it does not automatically make the instrument a true MCA. Rather, the actions of the funder must be analyzed and the particular facts examined to determine whether the matter is a loan or a legal MCA.

Until courts take this stance and more states adopt effective regulations, we must challenge the funders, their contracts, their fees and their abusive practices and illegal collection tactics to end this "non-loan" sham. Better yet, new and transparent methods of merchant lending must be created.

Absent any of the aforementioned remedies, is there a way to challenge, settle or legally fight an MCA? The answer is an emphatic yes! Seeking assistance when struggling to repay an MCA funder is a borrower's right and it should be taken. Borrowers must be allowed to restructure the MCA and, if need be, challenge any abuses. To do so, small businesses should contact an MCA attorney, who will provide the benefit of experience and the knowledge of the law. Borrowers will then know their rights and, more importantly, what can be done to end daily ACH payments, stop illegal collection efforts and settle an MCA. •

Grant Phillips, Esq. is the founder and managing principal of Grant Phillips Law, PLLC. The attorneys at Grant Phillips Law are experts in the practice of settling, litigating and, if applicable, terminating merchant cash advances. The firm's long-term goal is to get the MCA industry regulated, its players vetted and its interest rates capped through the adoption of a uniform MCA contract with standard terms and conditions and a cap on fees. Phillips can be reached at 516.670.5165 or at grant@grantphillipslaw.com.



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The Current State of Financing for the Outdoor Markets

Purchase order financing has always been a good bet for companies in the outdoor markets, whether they be snowboard equipment suppliers, hiking gear distributors or anything in between. Ned Post of Gateway Trade Funding, a passionate outdoor enthusiast himself, looks at the current state of the outdoor markets, the benefits of PO financing and what factors should know about working in this sector.

Ned Post of Gateway Trade Funding has had a hand in almost every aspect of the outdoor markets in his more than 45-year career. An avid skier and outdoor enthusiast who has started and grown companies in the outdoor markets, Post is now helping the next generation of outdoor enthusiasts with purchase order financing to help them meet and exceed their goals.

In a Q&A for *Commercial Factor*, Post shared his outlook on the current state of financing for the outdoor markets and how factoring and PO finance companies can work together to help companies in the sector grow.

How did you get into the outdoor markets space?

NED POST: I started skiing when I was 11. That single event was responsible for most of what happened after. My career in the ski and outdoor industry started at K2 in Washington. From K2, I moved on to AMF Tyrolia and on to senior executive positions at Wilson Sporting Goods in London and Chicago. From there, I took a position as president of Scott USA and eventually president of Smith Optics for over 20 years. During that period, I was lucky to have been exposed to numerous leadership and management roles,

all of them with P&L responsibilities. Because the outdoor market is traditionally composed of seasonal businesses, success depended greatly on supply chain stability. As such, I spent a lot of time visiting vendors and factories in Japan, Taiwan, China, Korea and Western Europe, assuring supply stability.

When I was ready to retire from Smith, one of the principals from Gateway asked me to join him to continue helping companies in the outdoor markets. I knew him well, as he was on the Smith board of directors. This opportunity was the perfect fit for me because I had seen first-hand how PO funding had helped my wife's snowboard clothing company. An additional motivation was seeing friends over the years try to start a new venture and end up giving up a large chunk of their business using equity to finance product purchases. A benefit to PO finance is that it is more practical and protects the owner's equity position.

Of great appeal to me [with joining Gateway] was that it was an opportunity to keep my hand in the outdoor game and help young entrepreneurs get on their feet, and it's really been successful. I have accomplished my goal numerous times and continue working toward that objective every day.

Why is PO financing especially successful for companies in the outdoor markets?

POST: The outdoor market is primarily made up of seasonal businesses. The sales cycle is not a 12-month cycle but is more likely to be a three- or four-month cycle. Consequentially, it is critical that merchandise arrives on time, or the sales opportunity will be missed or greatly diminished. Because PO financing utilizes payment by letters of credit, it is particularly suited

to provide working capital for the payment of goods and to assure that the goods are shipped on time because that is a requirement for payment on the LC. While supply chain issues during the COVID-19 pandemic have complicated delivery timings, the LC is still the best way to ensure that goods leave the factory on time.

Another reason PO finance works so well for the outdoor markets is that, in large part, the outdoor markets are driven by substantial preseason orders. These orders are big and only come once a year. There may be backup orders, but you're usually dealing with just one or two manufacturers, and their orders are big and spread out amongst retailers.

What impact has the current economic climate had on the outdoor markets?

POST: Because the outdoor markets are seasonal, not all segments have been treated equally by the pandemic. The most immediate effect occurred in the snow sports market when the governor of Colorado decided to close all of the Colorado ski areas in the middle of March 2020. Fortunately, the suppliers had already delivered all of the goods for the season, and the retailers had already sold through a good portion of their merchandise depending on their location. The service industries felt the real impact, including hotels and restaurants. For the product suppliers, any effect of the pandemic was deferred to the following season, which, to a great extent, was mitigated by the realities of the next spring and summer. The spring and summer markets were immediately affected, as the suppliers and the retail world scrambled to adjust forecasts and purchases to conditions that were largely guesses. This resulted largely in applying the brakes on all activities until the picture became clearer,

including a significant tightening of the credit markets, including PO finance.

Then, as the outdoors became the escape for an America faced with COVID, outdoor retail, both online and in-person, recovered to a great extent, clearing store shelves for many categories. You couldn't find a dumbbell even if your life depended on it during the summer and fall of 2020. By late fall, even the ski areas had made plans to operate on a limited basis for the winter season and, far from a disaster, the winter business was good, and for many of the outdoor segments, 2021 was a record year. Despite a significant wobble in 2020, the current economic market has not significantly affected the outdoor industry.

What has the most significant challenge been when providing PO financing to companies in the outdoor markets in the past 24 months?

POST: PO financing can be used for companies of various sizes but is particularly helpful in financing early-stage, entrepreneurial efforts where working capital is thin and a successful product may suddenly exhaust financing options. With this in mind, the past 24 months in the COVID environment have had several disruptive components. The first was the dramatic increase in the demand for personal protective equipment or PPE. Even though a portion of it turned out to be questionable activity, much of the PO community spent valuable time sorting through it all only to have most of it turned down at underwriting. The increase in demand for PPE that was real, however, was responsible for the shipping log jam, which occurred late in 2021 and continues today. The port debacle hurt PO financing by extending supply chain financing to an impractical timeline.

The second challenge to the PO finance market in general, as well as the outdoor markets, was the emergence of the Economic Injury Disaster Loans (EIDL). The SBA issued these to small businesses in amounts up to (originally) \$2 million for 30 years at 3.75%. While this was incredibly beneficial to the businesses that qualified for them, they disrupted our traditional PO market

with working capital at a significantly advantageous rate. While the EIDL funding has ended, the money borrowed will be in circulation for years.

An additional challenge was that COVID has driven more people to shop online. In turn, this is challenging for PO financing because it turns the deal into inventory financing. However, with our focus

shifting to startups because of the EIDLs, we found ourselves in a great position. This is because startups, with limited access to capital, are more successful if they go the wholesale route because the startup and customer acquisition costs are so much higher if they were to go direct to consumer online.

How can PO financing for companies in the outdoor space help factoring companies?

POST: PO financing is perfectly positioned to help companies be candidates for factoring because there are no receivables to factor unless ordered goods are produced, shipped and invoiced. PO financing is a proven solution enabling distributors to get the goods out the door, creating receivables for the factor community. It is an excellent solution for peak working capital demands without having to spend equity funding on temporary supply chain requirements.

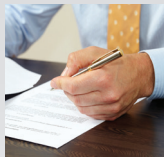
What is the best part of working with factoring companies on deals for companies in the outdoor market?

POST: The people who are attracted to the outdoor space are often outdoor people. This includes the entrepreneurs, the factors and my fellow teammates at Gateway. It is an excellent crowd to work with, and, most of the time, people seem to put in just a little bit more effort to get a successful package over the line because of their passion for the industry. That's a good thing. •

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