



MECHANIC'S LIENS—An Effective Tool

by Liz Harting, NACM Collection Legal Liaison

Dana Farmer, Esq., delivered his seminar on mechanics' liens for NACM on October 27, 2008. If your company is involved in the construction industry, mechanics' liens are important to you. If you weren't there, you should have been. Dana talked about the steps necessary before filing a lien, how to file a lien, the steps necessary to maintain a lien, the timeline you need to follow and some of the important lien laws of states surrounding Utah. You may wonder why I wanted to tackle the subject of liens when Dana Farmer just addressed the topic. First, I wanted to discuss how liens interact with collecting your money. Second, most of you weren't able to attend and I wanted to spread the benefit.

One of the things I frequently hear is that mechanics' liens don't work. Well, yes and no. Liens are most effective before the permanent financing on the project is put in place or before the home is sold and the loan is closed. So if it is a remodel and the owner is financing the remodel without a loan the lien may not be as effective. However, if the owner has a bunch of equity, the lien may shake loose some money. If you wait the full 90 days after the project is completed (or 180 days if no notice of completion is filed) before you file your lien, what happens? Right! The loans are closed and your option is to obtain a foreclosure report, hope there is a bunch of equity in the realty and start a foreclosure action. If the project is a qualified residence, you may not be able to go through with the foreclosure action. If there is no equity in the realty, there is no pot of gold for you because the bank has to be cashed out.

You sat back and waited to file the lien because you didn't want to anger your customer or the property owner. That is a legitimate concern. And as a credit manager, you have to weigh the business advantages and risks as well as the legal advantages and risks. I have heard the story that one of our members knew her customers so well and used mechanics' liens so well that she obtained about 97% of the amount due on everything she liened, including costs and fees. I think that is unusual but it certainly sets the bar for the rest of us.

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What's Up With My NACM Collection Accounts How Do I Find Out?

To Review Your NACM Collection Accounts 24/7

- 1) email Scott Lee at slee@nacmint.com
- 2) He will set you up with a password and instructions
- 3) Go to the NACM website at www.nacmint.com

Several years ago, we did away with sending written reports every few months for accounts that were placed with us for collection. We replaced it with an online system through which you can obtain an update of your accounts at your convenience—24/7 access. This frees up our collectors to do what you want: collect your money. Then if you still have questions, please call the collector handling the account. It's more efficient for you but it doesn't seem like very many of you know about it. The password doesn't have to be super fancy between 4 and 8 characters. We will send you an e-mail with the user instructions. Follow the instructions and start getting immediate feedback at your convenience. Please remember that there won't be a daily or weekly note posted to your accounts. The action happens but not every day. These are accounts that were in the nearly dead category (and some were probably actually in the all dead category) when you sent them. When the account is placed for litigation, the court system progresses slower and we are at the mercy of the court. We are all frustrated with that but it is the system we are stuck with and, although not as speedy as we would like, the litigation system does generate payments. Hang in there—try the online review system and enjoy the immediate response on your time frame any time of day or night.

Mechanic's Liens—An Effective Tool continued

Here is the deal. You have to be judicious with your use of the State Construction Registry (SCR). It may be a pain but it is what the Utah legislature has given us. It lets the owner and lender know you exist which means you are more likely to get paid. The general rule is that you have to file your preliminary lien with the State Construction Registry (<http://www.utah.gov/cnr/>) within 20 days of the date you first start providing labor, material or services. (There are lots of twists and turns in mechanics' liens. You will only get the general rule in this article. You should have come to the seminar or at least come to the next one.) Set some internal limits as to what type or size of project for which you will require a preliminary notice to be filed and which ones you are willing to risk not filing a notice.

Then you need to file your lien within 90 days of the date the project (not just your portion) is completed if a notice of completion is filed with the SCR. You must file within 180 days if no notice of completion is filed with the SCR. These are the maximum times allotted and there is no grace for being late. You can always file sooner. Know your customer and the project. If the loan is set to close the day after the final inspection, get your lien filed by the day of the inspection. Please note that for bond claims, you must file your bond claim within 90 days of the date YOU last provide labor, material or services and any lawsuit on the bond must be filed within one year of that same date.

Next. You have 180 days from the date you filed your lien to have the attorney start the litigation (foreclosure action) on the lien. Please note that 180 days is not six months. It may be about six months but it isn't six months and there is no grace period. You won't start separate actions for the bond after a year, and a contract claim against your customer after three years when you have to start the foreclosure action within 180 days. You will have them all handled at the same time by the same attorney.

You know what? Liens actually do work if they are judiciously used. But they won't work in every case. But isn't some better than none. Come to the next seminar. We usually have one as soon as the legislature lets out each Spring. And you can always call us for help or to collect on the claim for you. Hey! We invented lien laws. OK we didn't, but we understand them.

TIPS FROM NACM'S COLLECTION DEPARTMENT

by Rene Moss, Collector, NACM BCS

In today's market, offering credit may be considered risky business. You may have had the same clients for years who have always paid timely and suddenly you are seeing a trend of slow payment. What does this mean and what steps should be considered to protect your business.

- 1) Update the company's business credit policy and make sure management, sales and department heads are all working from this policy as a team.
- 2) Revisit all your clients credit applications and make sure the terms state the customer will pay all finance charges, late fees, collection fees, attorney fees and court costs. This needs to be on your credit application in order to legally collect the fees should the need arise to send to collections and/or suit. Make sure the application is completely filled out and signed.
- 3) Personal guarantees have been widely ignored and in many cases debtors refuse to sign a personal guarantee. In today's market, this is one of the most important collection tools you have. Time to get tough on this issue and get a personal guarantee on everyone you are extending credit.
- 4) Pull business credit reports BEFORE extending credit on any new clients.
- 5) Request financial statements on the larger clients.
- 6) Check business references and bank references. (How many times have they been overdrawn at the bank in the last two year time frame?)
- 7) Monthly statements should be sent showing current balance owing, finance charges, and recent transactions.
- 8) Start calling those who seem to be behind consistently before they reach 30 days.
- 9) Know when to turn the accounts over to NACM for collection. This should be 90 days.
- 10) Resolve disputes as quickly as possible and make sure the sales department and the A/R department are communicating on all past due accounts.
- 11) Keep your cool, stay calm, alert and turn on your listening skills. Let your client do the talking.

2008 Western Region Credit Conference

Remember...IF YOU DON'T ASK, YOU WILL NEVER GET TO GO!

**Attendees 2008 Western Region Credit Conference
Monte Carlo, Las Vegas
October 15-17**

Scout Whetman, A G Body Inc
Fred Call, A G Truck Equipment
Deborah Norris, Advanced Lifts & Elevators,
Jenny Svelund, Biograss Sod Farms
Carol Watters, CBA, Burton Lumber
Vicki Hambly, Burton Lumber
Debbie Morgan, Burton Lumber
Linda Deppe, C M C Conesco
Julie Ockler, Codale Electric Supply Co
Rossy Martinez, Geneva Pipe Company
Amanda Doyle, Hajoca
Barbara Mackay, Intermountain Concrete
Susan Lujan, CCE, Kenworth Sales Co
April Tanner, Kimball Equipment
Penny Williams, Midwest Floor Coverings
Sue Jensen, Miller Paving
Janae Jeffs, CCE, Muir Enterprises
Crystal Leavitt, Roofers Supply Inc
Carol Taylor, Roofers Supply Inc
Angie Monroe, Roofing Supply Group So UT
Traci Pensari, Roofing Supply Group UT

Janae Jeffs, CCE, Muir Roberts Enterprises had the opportunity to attend Western Region at the last minute and said:

"This conference is not as long as National Credit Congress, but what they pack in those 2 ½ days is PURE GOLD! Not only did they offer a class on credit guides but there were other classes like financial statements, credit card compliance and even a pre-conference Credit 101 class. Those attending learned a great deal. I was able to learn something new from every speaker and every class even the ones that I thought I knew most of the material like the class on collection staff evolution."



Back row: Rossy Martinez, Sue Jensen, Susan Lujan, CCE
Front row: Carol Watters, Vicki Hambly,
Debbie Morgan, Linda Deppe

WELCOME NEW MEMBERS:

Brundage Bone Concrete Pumping #5706
350 West 700th South
Pleasant Grove, UT 84065
Industry: Concrete
Rep: Jamie Nielson

Simper Supply, Inc. #5707
981 South 1500 East
Vernal, UT 84078
Industry: Industrial Supplied
Rep: Chad Simper

Customform Countertops #5708
317 North Main St.
Orem, UT 84057
Industry: Concrete
Rep: Mickey Hall

Eimco Water Technologies #5709
4255 Lake Park Blvd.
West Valley City, UT 84120
Industry: Contractors
Rep: John Seely

Hark'n Technologies #5710
Blding A-15 Freeport Center
Clearfield, UT 84016
Industry: Contractor
Rep: Traci Green

Speed-e-crete Concrete #5711
200 South 2000 West
Springville, UT 84663
Industry: Concrete
Rep: Frank Johnson

North Star Printing #5712
131 West 2050 North
Spanish Fork, UT 84660
Industry: Printing Publisher
Rep: Neal Foster

Maxam North America #5713
5505 South 900 East #300
Salt Lake City, UT 84117
Industry: Miscellaneous
Rep: Heidi Femelius

Trailblazer Controls Corp. #5714
1745 So. Milestone Dr. Ste 87
Salt Lake City, UT 84104
Industry: Miscellaneous
Rep: Brent Reichert

Arc Welding & Industrial Supply #5715
3292 West 900 South
Salt Lake City, UT 84104
Industry: Welding Supply
Rep: Georgia Davidson

Rocky Mountain Steel Services, Inc. #5716
2510 South 3400 West
Salt Lake City, UT 84119
Industry: Iron Steel
Rep: Jamie Bowlden

Gorge Rock Products #5717
507 Smith Street
Rock Springs, WY 82901
Industry: Concrete
Rep: Jan Layos

CREDIT EVOLUTION SEMINAR

Creative Approaches To Credit & Collections In Our Current Economy

Wednesday, November 5, 2008

Red Lion Hotel, 161 West 600 South

7:30 - 8:00 a.m. Registration and Continental Breakfast

8:00 – 12:00 Seminar

Price: \$75.00 Members, \$99.00 Non-members

Session One: Take Charge and Work Smarter in Credit & Collections

by Debie Wangsgard, CCE, Corporate Credit Training Manager, Stock Building Supply

Because...

- A/R trends are slowing
- Collections are harder
- There is not enough time...too many demands

How To...

- Prioritize-establish the right priorities
- Increase personal effectiveness
- Motivate employees and get them to prioritize
- Do more with less (reduction of work force)

Session Two: The Economy Changed & I Can't Find My Cheese!

Panel Discussion

Doug Darrington, CCE

Altaview Concrete

Patty Fulmer, CBA

BMC West

Mary Jane McIntosh, CBA

Henderson Wheel & Warehouse

Connie Steed, CCE

Rasmussen Equipment

- How do I collect and keep my customers?
- What do you do with LARGE bad checks?
- How can I secure marginal customer accounts?
- How to you handle "Pay when Paid" customers?
- Is the balance between your credit & sales changing?
- Should I loosen or tighten my credit policies in this economy?
- Is there a good way to approach coworkers that "pass the buck" rather than step up to the plate?

Sign Us Up!

Online at www.nacmint.com or FAX to Georgette Bevan, CCE, (801) 484-1891, phone: 801-433-6116

Names _____

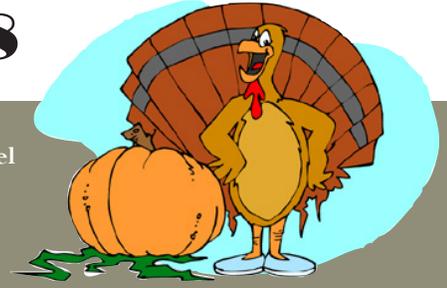
Company Name _____ Member # _____

Email Address _____

Code

Industry Credit Groups
Other events

November, 2008



Looking Ahead

Nov 4
Nov 5

NACM Credit Boot Camp, Red Lion Hotel
Credit Evolution, Red Lion Hotel

ALERT! November Industry Group Changes

Sat./Sun.	Monday	Tuesday	Wednesday	Thursday	Friday
1/2	3	4 NACM CREDIT BOOT CAMP RED LION HOTEL	5 NACM SEMINAR CREDIT EVOLUTION RED LION HOTEL	6 Hardware & Lumber	7 Steel & Welders
8/9	10	11 Food & Restaurant Reg. Contractors	12 SLC Contractors	13 ICEL LUNCHEON RED LION HOTEL 11:45A.M.	14 Concrete, Paving, Excavating & Waterworks
15/16	17 Masonry Landscaping	18 Printing Ind. of Utah Heating & Plumbing Automotive & Truck Suppliers Roofers & Siding	19 Window/Doors Advertisers, Media Ut. County Contr.	20 Industrial Supply Electrical Floor Covering	21 Diesel Engines So. Utah Contr. Ogden Contractors
22/23	24	25 Equipment Dealers	26 General Services General Contractors	27 THANKSGIVING DAY NACM CLOSED	28 NACM CLOSED
29/30					

NACM Credit Boot Camp

Credit and A/R Training

Tuesday, November 4, 2008, 7:30 a.m. – 12:30 p.m.

Red Lion Hotel, 151 West 600 South

Cost: \$50 NACM Members, \$80 Non Members

Are You Prepared?
It's a Credit & Collections Battle Out There!

Contact Georgette Bevan, CCE, at 801-433-6116



Instructors:
Dean Wangsgard, CCE
David Sekino, CCE
Scott W. Lee, CCE

**ICEL Luncheon, Thursday, November 13, 11:45 a.m.
Red Lion Hotel, 151 West 600 South, SLC, UT**

Cost: \$16
For more ICEL information, contact
Georgette Bevan, CCE, at 801-433-6116 or GBevan@nacmint.com

Managing Generational Differences In The Workplace by Frances A. Hume, SPHR

Today's workforce spans four generations as Americans live and work longer. Each contributes its own values, attitudes and perceptions to an evolving workplace. Frances Hume will compare and contrast the potential outcomes of each generation's approach to work and how we can better understand these differences to work more effectively with others.

Frances A. Hume, SPHR, is President of Hume 'n Resources, a strategic executive coaching and human resources consulting firm located in Park City, Utah. With over 30 years experience in human resource management, she has been able to assist numerous companies and individuals with creative and strategic business solutions to complicated interpersonal and employee-related issues.

Frances graduated from the University of Utah with her MBA degree. She is certified through HRCI as a Senior Professional in Human Resource (SPHR). As an instructor and speaker, she has developed and taught a variety of leadership, management, and business courses and seminars. She is a part-time professor for the University of Utah, Brigham Young University, and Salt Lake Community College.

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