

DEBT COLLECTION PROCEDURES

(Edited From an August 7, 1970, Oral Memorandum of Dick League)

GENERAL CONSIDERATIONS

My primary considerations in doing the work are three. First, that it is a relatively unimportant job in the office. This dictates it must be done as efficiently as possible. While the job is worth doing, it is more of a commercial type operation than a legal operation, and in fact, involves virtually no knowledge of law. Second, judgments in this state are generally uncollectible. Tools for the collection are limited, and that means the program boils down to mostly "bluff". This is kept business-like, however. Third, there is virtually no trial work. Out of about two hundred (200) accounts sued on, and about three hundred (300) people sued on those two hundred (200) accounts, only two (2), both of them on the same account, have filed an answer. Sometimes a lawyer gets into the picture; however, he works usually with us in setting up a repayment schedule for his clients to adhere to.

TOOLS FOR ADMINISTRATION

Our basic tools are:

- (1) A record book for our accounts. No such item was being kept before and you never knew where you were in this connection. For example, I

almost filed suits against ten people we already had two year old judgments against. I think this record book will eliminate this possibility provided it is kept up. In addition, it provides the usual things a record book should; you can instantaneously find out where you are on any given account. We use it also to by-pass some typing. Since we use a routine transmittal letter for most of our correspondence, e.g. acknowledgments and forwarding complaints and judgments, rather than reference a whole slew of accounts and keep a copy of such letters, we can just indicate in the book that this has been done.

- (2) A simplified filing system for each of the state's fifteen universities and for the Department of Public Instruction (whose accounts are also scholastic loan accounts). There are presently four files for each; a fifth for each, concerning executions, will be added as we undertake executions. (Actually, we have not yet worked for all the state's fifteen universities. We have not worked for Greensboro, NCCU, Fayetteville, Winston-Salem or A & T. A & T has sent us a list of 1,000 accounts, which would total more than all the work we have done for everyone else, and

we are not sure we can handle it. As a matter of fact, this month we will come to some decision on that, and that will be somewhat dictated by your plans for this job.)

- (3) A planned quarterly suits schedule. We divide up these schools (save for one or two that we've taken off the schedule list and whose work we do at any time), into four (4) periods and let each school know when we'll sue for it.

SUIT PROCEDURES

In connection with the suits the policies we operate under are simple. One, normally we don't sue for under \$100.00; we will vary this depending on our work load and the schools' needs. Two, normally we don't sue enlisted servicemen; however, we will sue officers because they have the money and they are people who, theoretically, should be responsible. Three, normally we don't sue where the Statute of Limitations bars the bulk of the debt. Four, we don't dismiss suit unless full payment is made.

To handle the steps involved in demand and suit, first we have our demand letters on MTST; there are four (4) of them, and which one we use depends on the circumstances that exist. Second, we have complaint forms when we come to the suit stage. University accounts are of three (3) kinds: student fees, single repayment notes and installment

repayment notes. We also have two (2) forms for the Department of Public Instruction. Of these five (5) complaints, four (4) (all but fees which does not occur in the following forms) are composed for two (2) situations: (1) where there is only one note involved; (2) where there is more than one (1) note involved. The reason for the double composition is the grammar change from singular to plural in several places throughout the complaint.

We take care of the variables that arise in suit by using alternative paragraphs. In running the complaints, the secretary, when she comes to the point that a change must be made, stops the main form and inputs the substitute. The main variables are the debtor's name having changed (e.g. marriage, divorce); the institution's name having changed (just about all of them have during the past decade); sureties being involved (a whole new paragraph is added and the typing of the complaint is suspended to input it and then the main tape is resumed); the existence of an acceleration clause (additional language is required in the paragraph stating so much is owed and due pursuant to the terms of the note).

Out of state accounts are still referred to out of state lawyers. This is so, even though the new Rules of Civil Procedure would permit us to sue in this state. Actually, it is still questionable in my mind whether it

is constitutional, and I sure don't want to have it declared unconstitutional on account of a \$50.00 debt that we tried to sue on here. Further, we're going to need a lawyer to supervise collection for us, so we go ahead and use the referral system initially on these accounts. In the referral letter (which is on MTST), we reference certain information beyond the debt information: (1) that we got their name from The Commercial Bar, a legal directory which provides an arbitration service for lawyer-client disputes provided that we get the lawyer's name from The Commercial Bar and that we tell The Commercial Bar about it. Accordingly, the publishers get a copy of our referral letters. (2) that these lawyers should deal directly with the client because there is no sense in our being a conduit for factual information they can get from the client as easily as we can. (3) that they should bill rather than deduct their fees. Most of them don't follow this, but asking it squares us with the universities' accounting departments. The way their funds are set up they have difficulty when something is deducted rather than sent in in full and a part of it billed back later. I am not in sympathy with that approach, so I don't worry about this, but I do figure I owe the universities the favor of asking as it keeps the university people we deal with square with their own accounting people.

The strongest point in the program is the way we spread the work. We rely on the universities to do a lot of it. The distance involved in traveling over this state for these schools is prohibitive for minor things, and so

we have them file their own complaints. We draw these up and send them out with a ten-page set of instructions telling the schools what to check in the complaints and to recheck such things as addresses, amounts, whether or not I signed the complaint or stamped an exhibit. We tell them how to draw the checks; tell them how much they'll need for the checks; tell them how to confirm this and tell them when to take the complaint down. Finally, we cover some of the problems we have encountered and tell the people how to deal with those. What makes this a strong point is that the people have learned of our difficulties because they are doing part of what is normally a lawyer's job (although it is not "legal" work). They see the junk that goes into the putting together of a lawsuit. That makes them that much more grateful for what part we do, and makes the program a team effort, with everyone kicking in where they can.

RESUME OF FORMS

There are approximately twenty-four (24) forms now set up and being used:

- (a) Five (5) basic complaints with four (4) in two (2) forms: one for single note; one for multible notes. These have been previously covered.
- (b) Six (6) variation paragraphs to switch in to

those complaints. These have been previously covered.

- (c) Various auxillary forms: we have a verification on the MTST; we have a Default Judgment and Affidavit of Amount Due on the MTST; we have the Dismissal, which is the substitute for the Voluntary Nonsuit under the new Rules on xerox (we can't get any more tapes at this point).
- (d) Letters: the out-of-state referral letter; an attachment setting out North Carolina law on acceleration clauses and seals where that comes up; the transmittal and referral letter for routine matters (on multigraph) and the four (4) demand letters. We have also just developed a form letter for getting our executions out; we have only done those for State University.
- (e) Miscellaneous items: instructions for filing suit; a secretary's suit data sheet (on which she writes information she needs on the accounts she runs complaints on rather than take the whole file with her); a suit information card to send out to the Clerks to get back to us the file number of the suit, filing date and service information.
- (f) Stamps: endorsement stamp, four (4) exhibit stamps, "certified to be a true copy" stamp.

SCOPE AND EFFECT

To date, the scope has been approximately eight hundred (800) accounts, about seven hundred (700) of those representing universities' and colleges' academic accounts, and about a hundred (100) representing other various state agencies. Eighty (80) of the latter came from the State Board of Health, which was an atypical situation; twenty (20) were spread over seven (7) other agencies. We have about a one-third (1/3) satisfactory response to our letters. Another third are people (1) we can't find; (2) who are out of state and we refer to other lawyers; (3) who have accounts too small for suit and are therefore written off; or (4) who, for various reasons, are deferred; usually we find out they are in service or have some unusual hardship. In the last third - people sued - we are getting one-fourth (1/4) satisfactory response out of these suits. This sets our overall percentage of return to about forty-one per cent (41%) of the total accounts with which we deal. When you take off the ten-fifteen per cent (10-15%) we can't find, it pushes the return close to fifty per cent (50%) of the accounts with which we can effectively deal.

PRELIMINARY RECOMMENDATION

My recommendation for the future of this job is this: That a career person - a non-legal person, a

secretary - be gotten to handle collections as her exclusive job.

I make this recommendation for the following positive reasons: (1) The job is largely a secretarial one; (2) The basic forms, procedures and policies are already developed and there isn't much room for error in them; (3) It is low-cost - even applying a lawyer to the job part time will probably run you higher than paying a secretary more under a designation of collections officer; (4) The people you work with are easy to get along with, many of them are women; and so they will have a commonality of not only work, but of sex as well.

From a negative standpoint, I would suggest the following are good reasons why, if a good job is desired, you might definitely decide against using a lawyer in this position: (1) Not many lawyers like this type of work - it simply doesn't fit the image of what a lawyer is supposed to be; (2) It is unimportant, and therefore uninspiring, work placed beside such things as Consumer Protection, Criminal Law, school problems; (3) The tendency has been for it to be placed with the least experienced man here in the office as something to be promoted out of; (4) Use of it as a demotion position would mean a man with a poor attitude would handle it.

The use of a non-lawyer would not mean an absence of

legal supervision. This office still should be within the division system and under a deputy who could supervise as needed and who would be available for help. This is essentially the same thing which occurs with a lower level lawyer. Therefore, all in all, no real change would occur except an assured good, steady and complete performance by the use of a sharp secretary as a collection officer with more authority and pay for her. I therefore recommend this, with the details to be broached and worked out at a future time.