FOUND MONEY: RECOVERING MUNICIPAL JUDGMENTS

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“Greatness really consists in doing some great deed with little means”

- Russell Conwell, “Acres of Diamonds” (Founder, Temple University)



“Uncollectible Judgments?”





TELLER CHECK

USAA FEDERAL SAVINGS BANK
10750 MCDERMOTT FWY
SAN ANTONIO, TX 78288-0544

USAA®

88-88/1113

12/02/2015

$**117,815.17

Preparer USAA.COM Drawer: USAA Federal Savings Bank Void if over $**117,815.17

PAY **One Hundred Seventeen Thousand Eight Hundred Fifteen and 17/100 s**

TO THE ORDER OF: THE CITY OF PHILADELPHIA

MEMO: FBO:JUDGEMENT IN FULL IN ERB V. AINSLIE- MATTHEW F AINSLIE

AUTHORIZED SIGNATURE

JPMORGAN CHASE BANK N.A. - DALLAS, TX

VOID AFTER 180 DAYS



“Uncollectible Judgments?”

City of Philadelphia - Judgment Collections Initiative

- Pa. Tort Claims Act
  - sidewalk liability, City is “secondarily liable” for tort judgments.
  - City has statutory right of indemnification against the “primarily liable” party, i.e., property owner.



- City of Philadelphia Judgment Collections Initiative
  - Recovery of tort judgments.

Net Payments received:

$1,200,000 (net)



Judgments previously deemed "uncollectible" may be worth re-visiting. Why?

- **Changed economic circumstances** (e.g., improved economy, changed demographics, increased real property values; Estate transference, etc.)
- **Advances in information technology** now easier to find people; find and evaluate their assets and financial obligations.





Collection of Monetary Judgments



Preparation for Collection

- But of what quality?
  - Service of Process
    - “Good service?”
    - Identity of judgment debtor
    - Can the debtor be found?
      - (Internet research)
      - Government records -but must respect confidential records (e.g., tax, employment, health)



Preparation for Collection

- **Reviving old judgments**

  (liberal rules on revival)
- **Asset Preservation**
  - "Freeze letter"
  - Preclude fraudulant conveyance
    - *Per se* fraud/"Badges of Fraud"

BANKRUPTCY

Need to rule it out!

Avoid violating automatic stay of enforcement from creditors.

Also, rule out other judgments. What is the priority of yours?

Discovering Assets

FORMAL

- **Discovery in Aid of Execution**

  Very effective tool!

  - **Interrogatories propounded on Judgment Debtor/Assets Deposition**
    - Post-Judgment
    - But, ways to explore pre-judgment
  - **Garnishment Interrogatories:**

Banks (can be a broad sweep of banks; need not know bank branch or account #);

Common Vendors (utilities, cable t.v., communications) to see who's paying and how;

Brokerages, etc.

What is the vulnerable asset?

INFORMAL

- Real Estate Holdings
- Internet
  - Business holdings and other financial interests
  - Memberships, positions
  - Social Media
    - But no "pretexting"
  - Docket searches

"Know your Debtor"

Levies on Assets

- Possible to transfer judgment to other jurisdictions, e.g.,
  - Levy on real property
  - Garnish rent payments
- *Terre* tenant: targeting the grantee of real property subject to judgment.
- Sheriff Sale: real property, corporate stock, liquor license
- Recouping collection fees

Merging roles as regulator/licensor and creditor. *Is it proper?*

Merging roles

- Placing a plaintiff/ judgment-debtor on "tax hold" until City is paid outstanding debt.
- Communication/Co-ordination between agencies or departments.

"Side-issues"

- May need to respond to requests for negotiated settlements; reformation of contracts.
- Receiving Payments. Where do they go? Which agency? What account?
- Document receipt of payments. Redundancy is best!

Potential sources of recovery

- Damage to city property, regulatory fines, penalties.
- Haz-Mat Response (*nollum tempus*?)
- Service fees, e.g., police escorts/construction details, special events.





Non-Monetary Judgment Recovery: The “Officer Friendly” Approach to Favorable Outcomes



Non-Profit Obligor

- Picric Acid found in university lab. Can be highly **explosive**. Haz-Mat response by City.
- Rather than seek Haz-Mat recovery costs, City arranged with university to provide City employees with computer training.







Green development in lieu of money recovery from non-profit land owner



The “Church case.” Church as judgment-debtor

BASES TO EXECUTE

- **Judgment paid by taxpayers**
- **Church not seek tax exemption as religious institution**
- **Ample real estate assets to satisfy judgment**

REASONS TO FORBEAR

- **Active parish**
- **Benefits to community**
  - **Day care**
  - **After-school programming**
  - **Dependency Rehabilitation**

“An investment in knowledge always pays the best interest.” - B. Franklin

