

# GUT FEELING, WOMAN'S INTUITION, AND STREET SMARTS

BY LORNE CHERRY

THEY'RE ALL REALLY THE SAME THING. Successful people (in both business and real life) understand that there is an essential sixth business sense which is acquired slowly from day-to-day sparring at the gymnasium in the school of hard knocks. And, unless you've experienced a few Rocky Balboa 15-rounders, you're simply not going to survive when the business world attempts to flatten your ego and your wallet at the same time.

What am I talking about? And why-oh-why am I back to my old cynical ways? I was so nice and cheery in my last column.

Call it bad debt, aged accounts receivables, being burned, ripped off, or getting stiffed. It's happened to you and it's happened to me.

Well, it happened to me again: I just got burned, ripped off, stung, or what-have-you for an ego-trashing \$18,000. Gave credit to someone I thought would pay me. And they didn't.

I want you to stop and think for a moment — imagine you've been paid in full and on time for every project you've done — and how much more money you'd have. Now, snap back to the real, cruel world of broken promises and flaky clients. Hurts, doesn't it?

I should 'no' better. That's right, if I (and you) learned to say *no* better, we'd have much more disposable income. Through the years, not trusting my gut feeling has steered me away from proper business decisions and into projects and clients that I've deeply regretted — both financially and emotionally. And nothing invades your personal life from the business world and hurts you emotionally more than a stiff upper cut from someone trying to stiff you.

This time around we're going to discuss the business side of graphics and, in particular, the gray area of managing accounts receivables, avoiding bad debts and the experience of court.

For you freelancers out there, minimizing bad debt is an essential part of prudent business practice. For those of you working within larger organizations, you may think you're insulated, but you're not. (And besides, I know you do a little freelance on the side anyway.)

Before I vacated the stable and mellow world of the Creative Director (ha ha) for the even calmer seas of the high tech world (ha ha), I was not as hard-nosed — I actually *accepted* bad debt as part of my daily cynicism. And that's

because in the world of freelancing, there is as much bad debt as there are bad clients, or shall I say, at least “uneducated” clients.

The graphics industry's inability (and seemingly futile) struggle to set fees, ensure proper accreditation, and thereby lend some legitimacy to the profession, hasn't helped. Many clients don't adequately value your work or realize how much work goes into your work. That's why creatives are always the last to get paid and the first to get stiffed when things go wrong.

## KEEP YOUR GUARD UP

For the tenderfoots, let me take a few punches for ya, so you'll make it into the second round. For the hardened veterans, I'll share my experiences and give you a few pointers to get you into the fifteenth round without getting hit below the belt.

Let's get one thing straight before I plunge into this. I am not a lawyer or chartered accountant — the advice and experiences I'm sharing are, well, just that — advice and experience. You need a good lawyer *and* accountant in your corner, just as a fighter needs a good cut man and trainer if he wants to maintain a winning record against formidable opponents. That said, you'll be surprised how much money and



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grief this article's headline could actually save you.

There are those who argue that street smarts can't be taught — they have to be learned. I'm not 100% sure. For most successful business people it's a murky combination of common sense and life experiences tempered by more life experiences — some memorably good, others not so good. But there is sound *theory* behind common sense and experience that make up the "smarts" in street smarts.

After getting stung about five years ago, I was determined to educate myself in the theoretical side of going the distance with those who don't want to fight fair and pay up.

Consultations with lawyers, accountants combined with seminars on managing receivables gave me some theory to practice when I jumped back into the ring for a free-for-all with a deadbeat.

More important, I learned how to avoid the no-win situations created by bad clients. And I learned to keep the lines of communication between myself and clients crystal clear so that I did nothing to turn a good client against me. With that theoretical knowledge, I could validate all red flags raised by my gut feeling.

The best advice and the most important advice I was given and can give, is to simply *avoid* bad situations in the first place. Easier said than done. Not submitting to the other ego-seeking, materialistic half of my cerebellum is something they just can't teach you at business class in university.

You have to take a few punches first. Hard ones. And you have to learn from your mistakes.

Here are some pointers to help you survive:

#### NEW CLIENTS

- All new clients must fill out a new client information sheet. Ask for *four* trade references and check them thoroughly (phone and courier companies don't count). Make sure you get a bank reference. Never extend

more credit than others have extended. And don't grant credit or terms until everything is checked out. (I have found that creditworthiness is strongly related to the quality of trade references given, especially with respect to small and medium sized clients.)

- Review the structure of your credit information sheet with a qualified accountant or lawyer. Have your lawyer build in a clause for small clients that extends liability personally. (We use different information sheets for qualifying large and small customers). Large companies should have a standard credit information sheet they issue to you with pertinent A/R information on it (e.g. Dunn and Brad number, bank info, A/P contacts, etc.).
- The creatives who you deal with in your company may not feel comfortable with (or simply may not know) some of the credit information you require in order to go ahead with the project. Make sure you are referred to someone in A/P whose job it is to pay you. Meeting them in person often helps when you need to get paid a little quicker too!
- Clients who don't care about the price don't care about paying you either.
- Large clients should have their credit checked more often than you think. If a large agency or client goes under, chances are that you are not a secured creditor. You're going to get nothing.
- Clients who switch banks all of a sudden have problems they're not telling you about. A long banking history at the same institution assures some stability. But if a client switches banks (not branches) suddenly, 26 red flags should go up and you should re-evaluate and re-qualify the client. Businesses rarely switch banks unless something's gone real wrong (line of credit reduced, called loan, or worse, bounced cheques.)
- Thirty day terms means you'll be paid in 44-to-60. If it's over 60 days,

you've got a problem. Clients that pay under 45 days are gold and should be valued as such.

- Slow payers will pay even slower, if you let them. Get on the phone on day 31, it'll speed things up.
- We build in an AF (asshole fee) for those clients/customers who purposely string us along and use our terms to overly finance their business, or are unreasonable just for the sake of being unreasonable.
- Creative people always get paid last, and worse, if the project or ad doesn't work, some clients don't feel obligated to pay at all!

#### CONTRACTS

- You do have a contract don't you? For some reason, I've noticed that photographers and writers seem to be better in this area than graphic artists. CAPIC and the various advertising and graphic arts associations in your region may also have standard contacts you can refer to. Trouble is, as your lawyer will advise, standard contracts rarely protect you enough.
- Always build in a kill fee. Make it clear when a client cancels the project for any reason that it *will* cost them money. Projects get cancelled, budgets get cut — and then no one wants to claim financial responsibility.
- Make sure your client understands *what* it is you are getting in writing. It's a lot easier to negotiate a settlement later on (when things go wrong) if both parties are clear upfront on what their obligations and rights are.
- Structure the payments of large projects up front. You can't afford to have the client arbitrarily dictate payment terms. Make terms grossly in your favour and retract back to a more balanced and mutually equitable position as a negotiating point. You can never have too much in writing.
- Have your lawyer *and* accountant review your contract. They often see things from a different view.

#### WHEN THINGS GET UGLY

- Be aware that on sour business dealings over \$10,000 and under \$30,000, you can't recover most of your money in small claims court (\$5,000 to \$7,000 limit in most jurisdictions) and legal fees may eat up any potential gains in any sub-\$30,000 law suit. (It's happened to me).
- Small claims court can take up to a year or more, other courts three to six years!
- Just because you're victorious in court doesn't mean you've won — getting the judgment is only half the battle, since the court judgement does not enforce collection. You must seize bank accounts, receivables or assets after a successful judgment and that requires a lot of effort if the defendant is flaky or has their assets well protected from creditors. And you'll often need your lawyer to go back to court again in order to collect on a judgment. Remember, our society is very protective of debtors.
- Never sue anyone without assets. You have nothing to gain financially and it's sure to cost you more. (The stroking of your ego that a favourable "empty judgement" gives does little to compensate you for your time, effort, and money).

#### HERE'S THE TOP TEN FROM LORNE'S GUT FEELING LIST

1. The closer the friend, the more you need it writing.
2. You always need it in writing anyway.
3. If you think a cheque should be certified, then it should. Get it certified before you lift pen to paper or hand to keyboard.
4. The value of a signature is directly proportional to the creditworthiness of the client. (It doesn't matter if a deadbeat or fraud signs his life away to you — you're not going to get paid.)
5. Avoid all business dealings where the client offers to pay you in a share of the business.
6. New clients *must* give you a retainer.

If they don't or won't, they're not committed to really hiring you (which means they're not committed to really paying you either).

7. Clients who insist they are honest and will pay on time, don't. (Those who are good, rarely trumpet the fact.)
8. Always trust your gut feeling, women's intuition and street smarts.
9. If you have any questions or aren't clear about any of these points, refer to the previous point.
10. Whaddaya mean you didn't get it in writing?

#### LET ME SUMMARIZE

It's the beginning of the fifteenth round. You've been beaten up real bad in rounds seven and nine. Through fourteen rounds you've taken so much abuse that you know the pain will continue long after the fight is over. You hurt. Your ego hurts. And the scars may never heal.

But there's still one last round to go...through the blood and sweat of your swollen eyes you're seeing triple opponents lined up to finish you off: on the right, *the bad business deal*, on the left, the always in-your-face *bad luck*, and in the middle, *bad judgment*.

Lorne's advice: hit the one in the middle.

If you can knock out bad judgment with a few common sense combinations, the other two opponents won't be able to look you straight in the eye. And if they do, and you should have to take a punch or two below the belt, you'll have the financial strength to survive. After all, if my gut feeling is correct (and it always is), you're a little tougher now than you were fifteen minutes ago before you read this.

Chin up, you're ready for the next battle. Or at least the next article. \*

—Lorne

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