



## Ag Supplier Receivables

By Jared D. Peterson, Shareholder, Fafinski Mark & Johnson, P.A.

By the time you read this, harvest will likely be well underway. Agricultural suppliers should direct some attention to their accounts receivable this fall to confirm that their business is in a position to get paid for any outstanding bills after harvest. While some crops are in excellent condition this year, other producers have experienced various weather events that will significantly impact their crop. Producers are hoping for higher yields to offset mediocre corn and soybean prices. There have been several years where higher crop prices were able to reduce the pressures of increased input and rent expenses, but that may not occur this year.

If your business has not already done so, it is important to strengthen your position for any unpaid inputs that were used for this year's crops or feed for livestock. Here are some strategies for strengthening your position and reducing accounts receivable.

### Consensual Security Interests

In general, a security interest is a legal right to certain property granted in writing by a debtor to a creditor. Suppliers of agricultural products can (but too often do not) obtain a consensual security interest to secure credit extended to agricultural producers.

One option is to include language granting your business a security interest in your credit application. If your business includes a grant of security interest for farm collateral in your credit application, and a debt remains unpaid, this would be an opportune time to perfect your security interest with a financing statement so that you are in line on the crops, livestock, or other collateral described in the credit application. Once a creditor's security interest has been perfected, that creditor generally has priority over subsequently perfected security interests in the same collateral (which might include a farmer's crops or livestock).

### Statutory Agricultural Liens

If ag suppliers do not have a grant of security interest in their credit application or other documents, then they should certainly be looking to better their position with the use of Minnesota's Agricultural Liens. These are statutory liens in Minnesota, so no written agreement or consent from the producer is needed.

For crops, the lien can be perfected for inputs such as fertilizers, chemicals, seed, petroleum products, custom applications, harvesting, drying, and storage of crops and crop products. Feed suppliers can obtain a statutory lien for feed, minerals,

drugs, animal health products, and other custom formula feeds used for feeding livestock. There are also many other statutory ag lien options for landlords, harvesters, livestock breeders, feeders, etc. Minnesota's various agricultural liens have different deadlines for when filings need to be completed, and priority can be determined by when the lien has been filed, so filing in a timely manner is important.

### Statutory Lien Notice

Creditors with ag liens in Minnesota also have the option of filing a Statutory Lien Notice to add their name to most crop and livestock checks. This can be an effective tool when a producer is ignoring the debt, and/or the lender will not recognize the validity or priority of the supplier's ag lien. In Minnesota, ag suppliers do not need the producer's consent or signature to file an ag lien or a statutory lien notice.

### Lien Notification Statement

Another tool in the ag supplier's toolbox is a Lien Notification Statement, which is a document that a supplier with an ag lien can send to any lenders with a prior security interest. This potentially allows the supplier to obtain priority over the secured lender if the lender does not respond within ten (10) days of receiving the notice. In other words, if the secured lender does not respond in a timely manner, a supplier may be paid first from any crop or livestock checks. A Lien Notification Statement can also be effective to combat any unscrupulous lenders who hope to increase the value of their collateral at the supplier's expense by not financing enough of the producer's crop and/or livestock operation to pay the crop input or feed supplier. The Lien Notification Statement can also be sent before credit is extended, so the ag supplier knows its position (and likelihood of getting paid) before selling the products.

### Conclusion

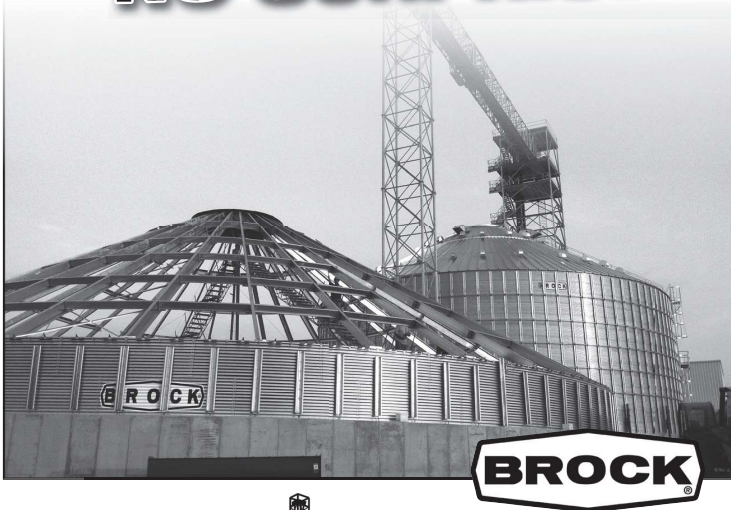
Businesses are understandably focused on growth and providing good service to their customers. Accounts receivable are easy to ignore, but you do so at your own peril. Many otherwise successful businesses with dedicated employees have been overwhelmed by excessive accounts receivable that could have been prevented. However, the good news is that with some time and regular attention, your business can avoid such consequences. FMJ's Agriculture Law Practice Group can help your organization identify the right strategies, create and/or file necessary documents, and design and implement procedures and policies to strengthen your position and reduce accounts receivable.

Fafinski Mark & Johnson (“FMJ”) is a full-service commercial law firm that provides legal services to businesses in a variety of industries, including agriculture. FMJ represents cooperatives, independent elevators, and other ag companies in all aspects of their business needs, including contracts, liens, mergers and acquisitions, insurance disputes, corporate governance, regulatory issues and compliance, environmental issues, and litigation. Jared Peterson is the Chair of FMJ’s Agriculture Law Practice Group, and he has been a legal advisor to agribusinesses for over 25 years.

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