



# Changing Horses

Some Tips for the Wary  
Beau Hays



## HAYS & POTTER'S RULE #1 FOR CREDIT MANAGEMENT

If the amount of credit being extended is enough that jobs are at stake if the customer goes under

**ACT LIKE YOU'VE  
ALREADY LOST THE  
MONEY!**

## HAYS & POTTER'S RULE #2 FOR CREDIT MANAGEMENT

Before the sale, you have all  
the leverage you'll ever have

After the sale, your leverage  
is gone



▶ HAYS & POTTER'S RULE #1 FOR CFOs

▶ Not selling is a better financial decision than selling and not getting paid!





# Changing Horses

- 1 - Name Changes
- 2 - Sale of the Company
- 3 - Merger
- 4 - Sister/Subsidiary/Similar

## 1 - Name Changes

KidKiller Skateboard Company

KidKiller Skateboard Co LLC

## 1 - Name Changes

### Corporations

Registered w/ State

Corporate Officers

Shareholders

Meetings

Corporate Minutes

### LLCs

Registered w/State

No Officers

Member Interests not shares

No Board needed

No record of action required

## 2 - Sale of Company

You've been selling to KidKiller Skateboard Company but now the phone is answered Tom's Tobacco Warehouse LLC

What happened?

2A - Sale of Ownership

2B - Sale of Business



## 2A - Sale of Ownership

Stock or Member Interests transferred to a new owner  
Business is unchanged

Continuation of Existing Business

Same Location  
Same Business/Product  
Same Management  
Same Employees  
Same Customers

Tom's Tobacco Warehouse LLC f/d/b/a KidKiller Skateboards

## 2A - Sale of Ownership - Caveat

Tom's owes the money, but what happens if Tom's goes under

## 2A - Sale of Ownership

Sale of Business Assets - Buy/Sell Agreement

Purchase of Assets But Not Liabilities

Bought the Lease  
Bought the Phone Number  
Bought the Customer List

Typically Tom's Tobacco Warehouse LLC not liable for  
KidKiller Skateboard debts

## 2A - Sale of Ownership

Steps I Will Take to Try to Get Paid

Did KidKiller pay the owner but not the creditors?

Were your sales really still to KidKiller

Time-consuming and Expensive to Maybe Get to Some Money

### 3 - Merger

“The absorption of one company by another, the latter retaining its own name and identity and acquiring assets, liabilities, franchises and powers of the former, and the absorbed company ceases to exist as a separate business entity.”

Good News: Tom’s Tobacco Warehouse is now responsible for KidKiller’s debts

## 4 - Sister / Subsidiary / Similar Business

### A Cautionary Tale



Ways to Reduce the Risks

Personal Guaranty

UCC-1 Financing Statements

Contract Language

VIGILANCE and DILIGENCE

## VIGILANCE and DILIGENCE

New Business Name

New Contact

New Email Address “@TomsTobacco”

New Business Address / Phone

New Bank

Increased Credit Request

REMEMBER RULE #2 - The time to ask for clarification is before you sell the account





# ANY QUESTIONS?

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