



## Truth is Stranger than Fiction

When California agent and owner of Minuteman Bail Bonds, John Yonan, received a call from police stating that his red sports car had been found just a few hours after Yonan reported it missing; he immediately went to the dealer to inspect the vehicle.

There was a lot of damage, including dents, scratches and a burned up engine. Inside the car, Yonan found scattered cheese puffs, trash and a handwritten note — from the thief to his mother. The note listed instructions — complete with names, addresses and a signature — for her to handle the thief's personal property when he began his prison sentence. Yonan turned the letter over to the police detective in charge of the case.

The next day, the detective informed Yonan that the thief had been identified and was arrested. Later that afternoon, Yonan received a call at his bail bond business. The caller identified himself and said he needed a bail bond. Yonan soon realized that he was talking to the thief who stole his car.

Yonan said, "I told him I would not bail him out and he asked me why. I replied that it was my car that he had stolen...he did not respond for a long time...he then said 'oops' and hung up."

Source: [www.BailBondBlogger.com](http://www.BailBondBlogger.com) in California

## Be an ACTIVE Participant in the Criminal Justice System

**N**ow, more than ever, it is imperative for you to be an active, contributing participant in your local and state criminal justice system. Across the country, counties and states facing challenging economic circumstances, are examining the bail process to address systemic jail overcrowding issues. In many instances, decision makers are not taking into account critical information that could be provided by bail agents and indeed, bail agents are often not included — or intentionally excluded — from the process.

As an industry, we have voluminous information demonstrating that corporate surety bail is the most effective form of pre-trial release, the most cost efficient, and the most conducive to public safety. Its demonstrated efficacy, at no expense to taxpayers, aids in the orderly administration of justice, enhances public safety, and results in considerable cost savings to taxpayers.

Empirical governmental studies such as *Pretrial Release of Felony Defendants in State Courts* (November 1997) and *Pretrial Release of Felony Defendants, 1992* (November 1994), conducted by the Bureau of Justice Statistics, have repeatedly shown that corporate surety bail has the highest appearance rate — thus the lowest FTA rate — of any form of pretrial release. Moreover, of those defendants that fail to appear, corporate surety bail is far superior in locating and returning the FTA defendant to the Court's jurisdiction.

Other studies — including *The Fugitive: Evidence on Public Versus Private Law Enforcement from Bail Jumping*, authored by Professors Eric Helland and Alexander Tabarrok (April, 2004), and *The Effectiveness and Cost of Secured and Unsecured Pre-trial Release in California's Large Urban Counties: 1990-2000* (March, 2005), authored by Michael K. Block, Ph.D., have compellingly quantified the economic and social benefits of commercial surety bail to the criminal justice system. These studies quantify a fundamental principle which underpins the efficacy of corporate surety bail: by integrating family and friends into the "circle of responsibility" as guarantors on the bond, the corporate surety bail process sufficiently "invests" — and, thus, instills financial incentive in — those guarantors, as well as the defendant and bondsman, to assure that the defendant appears, as required; and, if he does FTA, there is active and concerted pursuit of the defendant until he is located and returned to the Court's jurisdiction.

Those opposed to the use of corporate surety bail on philosophical grounds, including the National Association of Pre-trial Services Agencies, choose to ignore the facts compiled in the studies set forth above and indeed will distort statistics relating to publicly funded pretrial agencies. **The job for all bail agents is to get the message — and the supporting data — to local and state decision makers and to be an active contributing participant in your criminal justice system. If there is anything Lexington National can do to help, call us. 1-888-888-BAIL. ■**

Other studies — including *The Fugitive*

## Did You Know?

New York, Oregon and Washington Supreme Courts have ruled that police cannot place GPS trackers on a suspect's vehicle without first getting a court warrant showing probable cause.

The New York Court held that the GPS tracker planted by a police officer on a suspect's van for 65 days violated the suspect's constitutional protection against unreasonable searches. The suspect was arrested and convicted of burglary based in part on the GPS data that showed he was at an Albany department store before a break-in. The defendant will now get a new trial that excludes that evidence. The chief judge wrote: "The massive invasion of privacy entailed by the prolonged use of the GPS device was inconsistent with even the slightest reasonable expectation of privacy."

The ruling did not address the issue of GPS trackers being used by persons other than police officers. ■

## Giving Back

Is your business doing something unique to benefit the community in which you serve as a bail agent?

Want to share your endeavors with our readers?

Send digital pictures with a short caption to the editor at [mholtschneider@lexingtonnational.com](mailto:mholtschneider@lexingtonnational.com).



## Stay in Touch

Have an idea for our next newsletter? Need to update your contact information? Want to subscribe to our electronic version or unsubscribe from our mailing list? Send a quick note to the editor at [mholtschneider@lexingtonnational.com](mailto:mholtschneider@lexingtonnational.com).

## Lexington National Insurance Corporation



200 East Lexington Street, Suite 501  
Baltimore, MD 21202

[www.lexingtonnational.com](http://www.lexingtonnational.com)

**Bail is our Business...  
and we mean Business!**

**1-888-888-BAIL(2245)**

### Officers

Brian Frank – *President*  
Phyllis Kimmelman Frank –  
*Vice President*  
Ronnie Frank – *Vice President*  
Mark Holtschneider –  
*Executive Vice President/  
General Counsel*  
Kim Marzullo – *Vice President/  
Chief Financial Officer*  
Randy Parton –  
*Senior Vice President*  
Lisa Slater – *Vice President/  
Chief Operating Officer*

### Our Team

Tami Barksdale – *Field Service  
Representative*  
Jamie Burchett – *Agent Servicing*  
Kathy Coogan – *Field Service  
Representative*  
Roxanne Cucina – *Agent  
Servicing*  
Erika Douglas – *Special Projects*  
Jennifer Everhart – *Agent  
Servicing*  
Stevie Frank – *Agent Servicing*  
Amy Frey – *Agent Servicing*  
Monique Hood – *Agent Servicing*  
Tess Isaac – *Agent Servicing*  
Denise Jett – *Assistant to  
General Counsel*  
Terry Marquess –  
*Assistant to President*  
Quiana Mondowney –  
*Agent Servicing*  
Justin Mondowney –  
*Forfeiture Clerk*  
Patricia Price – *Agent Servicing*  
Dennis Sew –  
*Director of Agent Relations*  
Vicki Shinsky – *Agent Servicing*  
Jarre Weinstein – *Agent Servicing*  
Fran Whiting –  
*Forfeiture Supervisor*

Contact the editor Mark Holtschneider at [mholtschneider@lexingtonnational.com](mailto:mholtschneider@lexingtonnational.com) or 1-888-888-BAIL. Deadline for next newsletter issue content: September 1, 2009.

### Important Note

Lexington National Insurance Corporation does not endorse any of the vendors, web sites, forums, organizations, resources, etc. that are presented in this newsletter. All articles and references are prepared strictly for informational purposes.

# Working for the Phone Book Company

by Sean Cook

**E**very bondsman faces the question of advertising in the phone book. Which book should I advertise in? How big should my ad be? How many ads should I have?

Phone book ads can earn you substantial business and income. Although times are changing, many customers still reach for the phone book to find a bondsman. Consequently, it is important to have some presence in the yellow pages.

Many bondsmen believe that if they spend \$500 per month on one ad, and that ad brings in an average of \$1,000 per month, then they are earning enough to take out an ad in another phone book. If that second ad seems to be pulling its weight, the bail agent is tempted to take out even more ads. The problem occurs when the ads don't produce, but you are still paying for all of your ads. At a certain point, taking out

more ads doesn't make economic sense. If your ad revenue simply covers the cost of advertising, you've become an employee of the phone book company. No bondsman wants that.

The key to knowing how many ads you should take is establishing an overall strategic business plan. Once you have a plan, you need to track every call to see how customers are getting to you. If an ad in a certain phone book is not working, it's time to drop it and consider less expensive marketing, like websites and attorney marketing. ■

*Sean Cook is a Lexington National producer and the owner of Premier Bail Bonds in California. Sean is also the author of "Bail Bonds 101" and "Bail Bonds 201". For more information, log on to [www.bailbonds101.com](http://www.bailbonds101.com).*

## Know where they go!



ERA offers electronic monitoring products & services, with GPS tracking capability, at very competitive prices.

- **Enhance your revenue opportunities**
- **Manage and improve your risk liability**
- **Track your defendants' whereabouts – 24/7**

Ask about ERA's unique turn-key program, and our new **Bail Tracker** – marry your surety bond to a GPS device for as low as **\$49<sup>95</sup> per month.**

**ERA** Electronic  
Resource Associates, LLC.

[www.era-monitoring.com](http://www.era-monitoring.com) • 954-703-6033

Samuel Israel, a convicted defrauder and hedge fund swindler, was sentenced to two additional years in prison after a wild 2008 fugitive attempt that involved him faking his own death. Israel had swindled investors out of \$450 million. Now, he is serving 22 years in prison.

# Out and About at the 2009 PBUS Las Vegas Conference



Florida General Agent Frank Braswell and Steve Frank



Fred Frank with PBUS Executive Director Stephen Kreimer and Lesley Kreimer.



Brian Frank and Tennessee agent Marc Spears

California General Agent Glenda Stroobant and Phyllis Frank.



Mark Holtschneider making presentation



Southern Gentlemen - Frank Richardson and Mark Holtschneider



Fred, Steve, and Brian Frank with Tennessee Agent Tim BeShea



l to r back row CA agents Glenda and Frank Stroobant, Phyllis & Fred Frank; front row Texas Agents Ronnie Long and Renell Pedigo.



Georgia agents Alfred Jackson, Holly Bostik, Mary Baron, Darryl Hansley and Mark Holtschneider.



Randy and Denise Parton and Kansas Agent Bob Scofield



Florida General Agent and SOUTHERN BELLE – Linda Braswell – with Brian Frank.



Kansas Agent Bob Scofield and Florida Agent Robbie Braswell

l to r back row Phyllis & Fred Frank, and Randy Parton front row New Mexico Agent Tony Madrid and Patricia Chavez.

# Legal Beat: Recent Cases Impacting the Bail Industry

by Mark Holtschneider, Esq.



## **Bondsman Discharged if Case Not Tried within Two Years – Georgia**

On February 13, 2005, the bondsman posted a \$22,000.00 bond for a defendant charged with felony drug crimes. More than two years later, on July 31, 2007, the State filed its accusation against the defendant. The defendant failed to appear for the arraignment and the court forfeited the bond. The trial court denied the surety's motion to set aside the forfeiture and the bondsman appealed.

The court of appeals ruled in favor of the surety. Georgia §17-6-31 (e) provides that, if a misdemeanor defendant is not charged by the prosecutor within one year, or a felony defendant is not charged by the prosecutor within two years, then the bond is exonerated. The only exception is that if the failure to prosecute was the fault of the defendant. Here there was no evidence of the defendant's fault and thus the bond was exonerated. *First Choice Bonding Co. v State* (Ga. App. 2009)

**Lesson Learned:** In Georgia, there is a specific statutory period when bonds are discharged. Unfortunately, most states do not have a similar statute.

## **Refusal to Seek Extradition from Honduras or El Salvador Does Not Discharge Surety – California, Maryland and Minnesota**

Bondsmen in California and Maryland wrote bonds for defendants who ended up fleeing to Honduras. A bondsman in Minnesota wrote a bond for a defendant who absconded to El Salvador. All three argued that their bonds should be discharged. All three lost.

The surety in the California case moved pursuant to California Penal Code §1305(g) to vacate the forfeiture and exonerate the bond because the prosecutor elected not to seek extradition. The trial court denied the motion and the appellate court affirmed. The appeals court held that an election not to extradite means an actual choice. Since the County presented uncontested evidence that Honduras would not extradite citizens for the type of offense involved, any extradition request would have been futile. The Court stated, "We hold that when an extradition request would be futile or not feasible, no election can be made, and the forfeiture will not be vacated and the bond will not be exonerated."

On similar facts, the Maryland appellate court held that the bond would not be discharged simply because the state could not or would not extradite the defendant.

In the Minnesota case, the State presented evidence that El Salvador had never extradited an El Salvadoran citizen to the United States. The surety's good faith efforts in locating the fugitive did not outweigh the other factors considered by the court and thus the trial court did not abuse its discretion in refusing to discharge the bond. *State v Blanco* (Minn. App. 2009); *County of Los Angeles v Fairmont Specialty Group* (Cal. App. 2009); *Professional Bail Bonds Inc. v. State* (Md. App. 2009)

**Lesson Learned:** Simply finding a defendant in another country and presenting the prosecutor with an opportunity to extradite will not relieve the surety of liability if the defendant can not be extradited from that country.

# Tax Wisdom of Solomon: Tips and Updates

## **Morale Boosters, Incentives and Fringe Benefits**

Although many companies have put "freezes" on hiring, raises, bonuses and even retirement matching, there may be a few ways that business owners and management can continue to reward employees.

At the next employee evaluation or open enrollment for newly eligible employees, consider a few alternatives, which may possibly motivate your employees almost as much as a raise, while increasing your bottom line profit.

By implementing one of the following alternatives to a pay raise, you can and will be able to save 7.65% overall, offering exactly the same amount (dollar for dollar increase).

- Pay some, more or all of the health insurance.
- Pay for parking and / or public transportation (up to \$230/month and up to \$120/month respectively).
- Pay for continuing Education (up to \$5,250 per year).

by Eric M. Nislow, CPA



You can also offer additional benefits to your employees (at no additional cost to you) that could save them even more.

- Implement a Cafeteria Plan (including a Flexible Spending Account). These plans may include health care costs, child care costs, group life insurance or disability benefits (for employees and dependents).
- Convert health premium deductions to pre-tax.

## **2009 Tax Changes**

The following are some of the increases and/or changes for 2009 calendar year that individual filers can expect for planning and withholdings:

- Personal exemptions \$3,650 (AGI phase-out amounts may apply)
- Standard deduction \$11,400 (married filing joint), \$5,700 (individual & filing separate), \$8,350 (head of

### **Interview of the Fugitive as a Witness Does Not Discharge Bond – California**

The defendant failed to appear and a warrant was issued. The fugitive was later a shooting victim in another county. The law enforcement officer investigating that shooting interviewed the fugitive, but did not arrest him or check for warrants despite being told by the bondsman that there was a warrant. The court held that the fugitive was never in custody or subject to a hold on the underlying charge. Therefore, the bond was not exonerated pursuant to California Penal Code §1305(c)(3). *County of Orange v Indiana Lumbermens Mutual Insurance Co.* (Cal. App. 2009)

**Lesson Learned:** The result here is unjust since law enforcement had the fugitive in custody and was told that he had warrants. Apparently, simply notifying the police was insufficient and the bondsman was required to take the fugitive into custody and surrender him in order to be exonerated from the bond.

### **Second Felony Charge Discharges Surety in Florida, but not Arizona**

Bail laws vary from state to state, including discharge of a surety when new charges are filed against a defendant after the bond is posted.

In a recent Florida case, the defendant was originally charged with one first degree felony and one third degree felony. After the bond was issued, and without the surety's consent, an amended information added a second first degree felony. The court held that the additional charge increased the surety's risk

and thus the trial court should have set aside the bond forfeiture. In a recent Arizona case, however, the opposite conclusion was reached. The defendant was originally charged with a shooting. After the bond was posted, two attempted murder counts were added. The defendant failed to appear and the bond was forfeited. The trial court and appellate court held that the new charges did not discharge the surety because there was not evidence that the defendant knew of the charges or that they caused him to flee. *Matt Howard Bail Bonds v Escambia County Clerk* (Fla. App. 2009); *State v. MC's Bail Bonds* (Az. App. 2009)

**Lesson Learned:** When a surety's risk is increased, the surety may be discharged from liability, depending on the State law where the bond was posted. A defendant facing one first degree felony charge is less risky than one facing two first degree felony charges. Increasing the surety's risk, without consent, is unfair and a reason for exoneration.

### **Defendant's Ignorance of Court Date Not a Defense – Arizona**

The surety argued that the defendant failed to appear because the defendant was not aware of the re-scheduled court date. The Court held that this excuse was inadequate as a matter of law because the defendant was obligated to communicate with his lawyer and stay informed of developments in his case. *State v. Copperstate Bail Bonds* (Az. App. 2009)

**Lesson Learned:** To avoid forfeitures, the bondsman should keep up with court dates and make sure defendants know when they next need to be in court. ■

household)

- HSA Contribution limits for individuals under age 55 are \$3,000 self / \$5,950 family
- HSA Contribution limits for individuals 55 or older \$4,000 self / \$6,950 family
- 15% tax bracket includes income up to \$67,900 (25% @ \$67,901-\$137,050) — MFJ status
- 15% tax bracket includes income up to \$33,950 (25% @ \$33,951 - \$82,250) — Single status
- Annual gift tax exclusion is \$13,000
- Medical and move related mileage is 24 cents per mile
- Charitable related mileage is 14 cents per mile
- Standard mileage rate for business use of personal vehicles is 55 cents per mile
- Deduction for credit and debit card convenience fees paid for income tax liabilities is now deductible on the Schedule A of the 1040 (Itemized deductions form). Keep in mind these amounts are subject to 2% of AGI.
- Penalty for failure to file an income tax return for tax years after 2008, more than 60 days after the due date (including extensions) will be the smaller of \$135 or 100% of the unpaid tax liability.

### **Go Green – Car Credits**

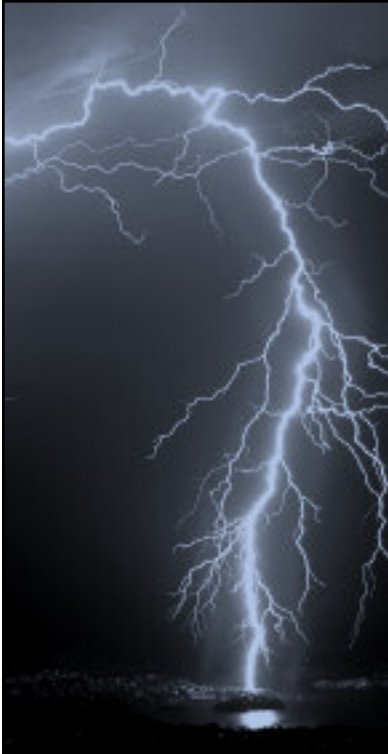
Customer Assistance to Recycle and Save (CARS) program, also known as the Cash for Clunkers Rebate Program, is designed to help individuals afford a new, more fuel efficient car. If you have a vehicle that is:

- less than 25 years old
- gets 18 miles per gallon or less
- is in drivable condition
- has had continuous insurance coverage
- has been registered in your name for the last full year

You may be eligible for the \$3,500 to \$4,500 credit towards a new vehicle. The program is currently scheduled to run from July through November 1, 2009, although there is some discussion about limiting this time period.

Stay tuned for any more changes; and call us if you need help. ■

*Eric M. Nislow, CPA is the managing partner of Solomon and Nislow, P.A., a Baltimore-based tax, accounting and consulting firm serving clients since 1965. For assistance or questions, contact Eric Nislow at 410-727-2717 or enislow@solomonandnislow.com.*



# ***YOU'LL HAVE THE POWER WHEN YOU NEED THE POWER!***

Have you ever lost a bond because your surety didn't send you enough **powers**?

Have you ever lost a *large* bond because your surety didn't send you a **large enough power**?

At Lexington National, we know that having the proper power inventory is critical to your success.

***You can't post the bond if you don't have the power.***

**Let Lexington National empower you.**

Call us at **888-888-BAIL** (2245).

*Bail is our Business...and we mean Business!*

Prst Std  
US Postage  
PAID  
Permit No. 1608  
Baltimore, MD



200 East Lexington Street, Suite 501  
Baltimore, MD 21202  
1-888-888-BAIL