



Truth is Stranger Than Fiction

Designer Labels from Behind Bars

It's no surprise that Italy has been setting fashion trends for years. But, some may find it surprising to know that prisoners are creating some of the hippest fashions in the market today.

At the avant-garde San Vittore institution in Milan, female inmates have the opportunity to take a course in fashion design. Instead of the usual penal reform, these women sketch, sew and model clothing. In the past 15 years, inmates have crafted costumes for the local theatre, La Scala, clothes for tv anchorpersons and trendy designs for the general public.

Known as **Project Alice**, this cooperative operates exclusively in Milan's jails, offering women behind bars a chance to make something of their lives. One of the program's most enthusiastic supporters is Italian designer Anna Molinari.

Of the 100 women who have joined the cooperative since its origin, only one has returned to jail. Director Alesandro Brevi says, "Working is the key that gives any meaning to detention. The inmates who are members of the cooperative become so dedicated to their work that they often keep working well into the night."

Across town at the Rebibbia prison in Rome, male inmates gather to brainstorm about the latest addition to their **Made in Jail** t-shirts. In a small silk screening studio, the men design clever graphics and slogans, like an exit sign with directions for jumping over a wall. And, downtown shops and roadside restaurants sell them like hotcakes.

In fact, Autogrill, Italy's biggest national roadside chain, recently ordered 10,000 t-shirts from the cooperative. Founder and ex-con Silvio Palmero is thrilled with the group's success, a \$250,000-a-year business. But, he's mostly proud of Made in Jail's efforts in raising awareness of prison life, particularly the difficulties in finding work after release.

"Sure we hear scornful comments," Palmero admits, "but it doesn't matter. It's important for us to assert the fact that of course we are ex-cons, but we're working legally now."

While he was a prisoner at Rebibbia in the late 1980s, Palmero sparked interest in the idea. Since his release, he returns to the prison three days a week to lead the creative discussions. He runs the cooperative with the help of 30 other ex-convicts. ■

Sources: www.wallstreetjournal.com;
www.guardian.co.uk

What Liens are on My Indemnitor's Home?

The previous issue of this newsletter discussed how to determine the value of property that an indemnitor will give as collateral on a bond. After a bondsman has determined what the property is worth, he needs to determine what liens are already on the property. The total liens are then deducted from the property's value to establish the equity in the property that the bondsman can recover against if there is forfeiture on the bond.

Types of Liens

There are several kinds of liens or encumbrances that can be placed against the property. A "voluntary" lien is one that the owner agrees to, such as:

- A first mortgage or deed of trust from a bank or other lender; and
- A line of credit, home equity loan, or second mortgage.

An "involuntary" lien is one that is placed on the property without the owner's agreement, such as:

- A tax lien by the Internal Revenue Service, State or Municipality;
- Judgments from civil lawsuits; and
- Contractor liens.

Determining Existing Liens

There are many ways to determine what liens are in place on a piece of real estate. Below are some of the most common methods, listed from most reliable to least reliable.

■ Title Search

The most accurate way to determine existing liens is to do a title search. A title company or abstractor visits or accesses the county land records for the jurisdiction in which the property is located to review all transfers, liens, judgments and other recorded data. Although in some jurisdictions much of this information is available online, there are usually records that have been filed with the court clerk and have not yet been entered into the computer system. As a result, to be completely current, a physical search of the land records is often required.

After reviewing the records, the abstractor or title company prepares a "title report" or "title abstract". The report shows who owns the property (which is critical to determining who signs the Indemnity Agreement and Deed of Trust or Mortgage)

Continued on page 2

Autumn 2007

I N S I D E	Collection Notes	3	Tax Wisdom for Small Businesses	5
	Interview with Agent Don Castle	4	Legal Beat	6
	Extradition from Mexico	4		

Lexington National Mourns Loss of Florida Bondsman Shot in the Line of Duty

On July 9, 2007, Lexington National agent Jerry Anthony Dongo was shot while attempting to apprehend a convicted felon. The felon was arrested immediately after the shooting and charged with murder. Jerry leaves behind a wife and three small children.

Lexington National agent Kirk Ennevor, who works in Miami, met Jerry years ago during a recovery effort when Jerry was working as a security guard. Jerry then got his bail license and made a name for himself as an excellent fugitive recovery agent. Kirk said that "Jerry loved his work. He was passionate and determined. Jerry was also always ready to help a friend and make others laugh. He will be missed." ■

Continued from page 1

along with all liens and encumbrances. Title reports can be prepared in a few hours or up to 72 hours. Costs typically range from \$125.00 to \$250.00. To get the fastest service and best price, you should develop a relationship with a local title or escrow company, abstractor, or attorney.

Once you receive a title report, it is necessary to decide whether or not to buy title insurance. A title insurance policy guarantees that only those encumbrances listed on the title report have priority over your Deed of Trust or Mortgage. Title insurance policies are often required on very large bonds to insure that pledged collateral has the equity claimed by the indemnitor.

■ On-Line Property Searches

Many companies, such as DataQuick, provide reports on a property's chain of title and liens. The information is easily accessed from the Internet and only costs about \$20.00. The report shows deeds of trust and mortgages filed on the property. Unfortunately, there is a lag time between a lien being recorded in a county's land records and that information showing up on a property profile search. In addition, not all real estate parcels can be accessed. Finally, involuntary liens do not appear. Consequently, the reports provided by DataQuick and others are helpful, but not definitive, regarding existing encumbrances.

■ Credit Checks

Running a credit check on the property owner can be helpful in determining liens. That check, of course, can only be run after the indemnitor has signed the indemnity agreement or some other document giving you permission to pull his credit report. A credit report will usually show existing and closed mortgages as well as IRS tax liens and judgments. The report also lists others who have recently checked the indemnitor's credit. Credit reports, however, will not include recently filed deeds of trust or mortgages. Consequently, they are not as timely or accurate as a title search.

■ Last Monthly Mortgage Statement

A final method of determining liens is to ask the indemnitor for her most recent monthly mortgage statement. This statement will show when the last payment was made and the outstanding balance of the loan. This method, of course, does not reveal any second mortgages or involuntary liens, but at least provides some confirmation of existing liens. ■

If you have any questions regarding liens or would like a recommendation as to a title or escrow company, abstractor or attorney, please call Mark Holtschneider at 888-888-2245.



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Collection Note: "Probing" – an Effective Collection Tool

by Glenda A. Spears

Every good collector knows that speed is essential to revenue. One of the most effective tracing tools available is actually nothing more than asking good old-fashioned questions that, when strategically asked, help you and the collector obtain information. We call it "probing" or "obtaining full and complete". Probing is something we do each time we begin to skip trace.

The first step of any good collection call is to be prepared. What information are you trying to obtain? What will help you collect the debt? Most collectors realize that a call placed to a person at work is often more effective than that same call made to that person's home telephone. Once a person begins to receive collection calls on the job, the debtor usually wants to put a stop to the calls. Many times, payment arrangements are made specifically to stop these types of calls. It also goes without saying that the more numbers you have for someone (home, work or even a relative), the more likely you are to collect the debt.

How do you obtain these numbers? A few simple techniques will help. First, familiarize yourself with the debt and debtor. Learn as much about the person and the debt as possible. Hopefully, the applications completed when the bail was written will provide you good background information.

Every good collector knows that speed is essential to revenue. Use your time wisely; reviewing the information you have prior to dialing the number. Once you have your debtor on the line, make sure you gather as much new information as possible (i.e. reconfirm and correct past information). The goal here is to get as many of your questions answered as possible.

"Probe".....you never know what kind of new information you might uncover! ■

Glenda A. Spears is CEO at Talbott, Adams & Moore, a debt collections firm with a specialty in bail bonds. She can be reached at gspears@talbott-adams-moore.com.



Out and About:

Lexington National agent and Ohio Bail Agents Association president Steve Domonkos



Mark Holtschneider and Judge Nancy Russo in her "I love my bail agents" t-shirt



(Left to right) are Lexington National agents Tammy Belcher and Freda Meade



Lexington National agent and Ohio Bail Agents Association vice-president Mary Smith

A Man's Business is His Castle: Agent Don Castle

by Maryanne Arthur

Don Castle is a man who does not back down from making tough calls. Twenty years ago, he went solo with Castle Bail Bonds, after learning the business and working with family members. Just as he celebrated success with 40 agents in Ohio and 50 in North and South Carolina, Don grappled with multi-state management issues. Ultimately, he made the tough choice to close his Carolina operations. Seven years ago, he signed a deal to work with Lexington National. Recently, Don Castle shared details of his bail bond experience and relationship with Lexington National. Here are highlights of that conversation:

Who are the family members in your business?

In the early years, *my wife Nichole* helped with any tasks needed at the office. *My sister-in-law Courtney* works here full time. And, *my son Erik* has his bail license and has helped me in the business periodically. He is a junior at Ohio State. Right now, he's interested in sports management and may pursue a law degree. And, *my third-grade daughter Abby* enjoys hanging out at our office when she's not swimming or practicing karate.

How did you get started in the bail business?

Many years ago, I entered the bail bond business working with some family members. After seeing the potential of managing my own book of business, I opened Castle Bail Bonds. For three years, I handled everything by myself. Slowly, the business grew enough to hire staff. Today, Castle Bail Bonds has an office manager, a bookkeeper and 30 agents in a half dozen offices across Ohio.

Describe your relationship with Lexington National?

When I was looking for a carrier in 2000, I made several phone calls and evaluated a handful of options. I ran across Lexington National's website and liked what I saw. So, I did some more research and called Brian Frank. I wanted to deal with a reputable insurance company that had significant bail

experience. Brian and I had a good rapport from the start. The folks at Lexington National like to get things done; I like to run my own shop. Everyone has been so nice and supportive, even when I had some problems. They were always there to help me, but gave me room and assistance to work through the challenges I confronted.



How do you obtain new business?

Mostly, our agents are out in the field. I encourage them to get involved in the communities we serve. We sponsor local events, like Rock Fest and a St. Patrick's Day event. And, underwrite the Deputy's Association and Police Officer's Association. We receive a lot of word-of-mouth referrals that way. We also do some radio advertising. Of course, we have repeat business too.

What part of your business brings the greatest success?

Two things. Someone from our office is on call 24 hours a day, which makes us always available to handle client calls. And, I have thrived on competition — we do our best to earn our business everyday.

Good advice for other agents.

With Lexington National, it's nice to have a national network of peers to work with. Many of us have grown a lot together. Be sure to meet and share things with other agents. You never know where it might lead you. ■

Don Castle is sole owner of Castle Bail Bonds in Ohio. He is a member of the Ohio Bail Agents Association and Professional Bondsmen of the United States. Contact Don at 937-206-1905 or donncastle@hotmail.com.

Can I Extradite My Skip From Mexico?

Although the defendant had some connection to Mexico, you decided to write the bond anyway because of his current ties to your city and his very strong indemnitors (and their collateral). Unfortunately, the defendant decided to skip court and run to Mexico.

Now what?

Your first thought may be to go down to Mexico and bring the defendant back with you. As we all know from Duane "Dog" Chapman, however, crossing into Mexico to return a fugitive is considered kidnapping in Mexico. Consequently,

that is not an option you will want to take.

Your second thought may be to coax or trick the defendant back to the United States where you can capture him. Perhaps a lawsuit against the indemnitors will persuade them to help you.

If you can not get the fugitive to voluntarily return to the United States, you should consider extradition. Unfortunately, extradition of a fugitive from Mexico is not easy.

Extradition between the United States and Mexico is governed by a Treaty signed in 1978 by President Jimmy Carter

Tax Wisdom of Solomon: Addendum to the Tax Gap

by Eric M. Nislow, CPA

Many of our readers probably never heard of the “Tax Gap” until they read our prior article. The Tax Gap, you’ll recall, is the difference between what the IRS collects each year compared to what it should have collected. Now, the IRS Director of Research, Analysis and Statistics has announced revisions of the National Research Program (NRP).

The new NRP study starts in October, 2007 and will audit 13,000 returns from 2006. The Director, Mark Mazur, states that Congress has been applying constant pressure to close the tax gap, so the IRS intends to act before receiving more direct Congressional intervention. Some writers refer to these forthcoming examinations as “audits from hell.” For example, many years back in a similar program called TCMP, taxpayers had to prove that they were married to qualify for filing a joint return.

Indictments for False Telephone Tax Refund Claims

On personal 2006 tax returns, taxpayers were able to claim a tax refund - generally between \$30-\$60 — which arose from some previously-decided court cases. This seems so plain vanilla that it’s hard to believe certain tax preparers allegedly figured out how to file for thousands of dollars in fraudulent telephone tax refund claims. Federal indictments were numerous and extended from Miami, FL to Riverside, CA. One preparer in Miami pled guilty to making and presenting fraudulent claims to the IRS. Swiftly, the IRS spread the word about these indictments, perhaps to show those who may facilitate false claims that they will be treated harshly.

Interestingly, the IRS also reported that about 30% of the taxpayers who were entitled to this refund did not request it.

Small Business and Work Opportunity Tax Act of 2007

President George Bush recently signed into law the first major tax act of 2007, the Small Business and Work Opportunity Tax Act of 2007 (the “Act”).

Expansion of the Kiddie Tax. An expansion was passed of the kiddie tax to apply to children who are under age 19 or who are full-time students up to age 24. This may well impact millions of families.

Minimum Wage Increase. The Act gradually raises the minimum hourly wage to \$7.25 over the next two years.

Small Business Expensing. The Act extends and expands the Section 179 enhanced expensing provisions through 2010. It provides for an immediate 2007 increase in the expensing limit from \$112,000 to \$125,000.

Husband and Wife Partnerships. This is a murky area of the tax law, especially as it relates to Social Security benefits and how the husband and wife dealt with this issue in the past. We think of it as full of potential tax traps. The new law provides that a husband and wife who together operate an unincorporated business can elect to not be treated as a partnership for tax years beginning after 2006. Of course, this assumes that the husband and wife were filing as a partnership to begin with. Instead, each spouse would report his or her share of income on their joint form 1040, on separate business income Schedule C’s. It follows that each spouse would pay his/her own Medicare and Social Security taxes. Married partners must review their financial position with their tax and legal advisers. In addition to Social Security and Medicare issues, consideration should be given to a multitude of other issues, including the effect upon future operations as a limited liability company, plans to incorporate, estate planning and special allocations allowed to partnerships.

For questions on anything you read here, or help if you get called for an “audit from hell,” contact your CPA or financial advisor. ■

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.

(found at 31 U.S.T. 5061). Here are the highlights for you to consider:

1. **Serious Crime** – Extradition can only be requested through diplomatic channels. This means you will need to work with the Department of Justice and the State Department. These agencies will not get involved in misdemeanors or small felonies. They will only be interested in more significant felonies.
2. **U.S. Citizen** – If the fugitive is a Mexican citizen, Mexico is not required to extradite him to the United States.

Using this discretion, Mexico has rarely extradited a Mexican citizen to the United States.

3. **Payment of Costs** – Not surprisingly, the requesting party must bear the full cost of extradition. International extraditions can be expensive given the bureaucracy and travel costs, so only larger skips are appropriate.

If one of your defendants runs to Mexico and you are considering extradition, give us a call and we may be able to help you with the process. ■

Legal Beat: Recent Cases Impacting the Bail Industry

by Mark Holtschneider, Esq.



Bondsmen Have Constitutional Right to Solicit Business – Federal Law

A Texas statute covering bail bondsmen includes a provision that prohibits bondsmen from (1) contacting a person subject to an unexecuted arrest warrant, (2) calling potential customers for 24 hours after the offender is arrested, and (3) contacting potential customers between 9:00 p.m. and 9:00 a.m. Two Houston bondsmen challenged the constitutionality of the statute and prevailed on the first two provisions. The case was then appealed to the United States Fifth Circuit Court of Appeals. The appeals court held that commercial speech, such as a bail bondsmen soliciting business, is protected under the freedom of speech clause of the U.S. Constitution and can only be infringed under limited circumstances. The court held that a bondsman can not be prohibited from contacting a person subject to an unexecuted arrest warrant and can not be prohibited from calling potential customers for 24 hours after an offender is arrested. The court did hold, however, that a law preventing bondsmen from soliciting between 9:00 p.m. and 9:00 a.m. was valid and enforceable. *Pruett v Harris County Bail Board* (U.S. 5th Cir. 2007).

Lesson Learned – Although the rights of bondsmen to solicit business can be limited in certain ways (on jail grounds, with payments to unlicensed persons, etc.), a bondsman's right to solicit persons subject to unexecuted arrest warrants and those who have been recently arrested, is protected. If there are State or local rules in your area that prohibit this conduct, they are probably unconstitutional.

Bond Discharged Upon Defendant's Probation Sentence– Texas

A \$10,000.00 bond was posted for a defendant in Smith County, Texas. In October 1997, the defendant was convicted and given five years probation. Ten years later, the court ordered that the defendant appear for another hearing. The defendant, however, failed to appear and the court forfeited the bond. The bondsman appealed and won. The Appellate Court held that "in no event shall the surety be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge." As such, once the defendant began probation, the pre-trial bail bond was exonerated. *In Re: Welsh* (Tex.App.2007)

Lesson Learned – The exoneration of a bail bond is normally governed by a state statute or court rule. In some states, a surety's liability ends when the defendant's guilt or innocence is determined. In other states the bond is only discharged after the defendant is sentenced. Finally, some states only discharge a bond after the defendant has appeared to start serving his sentence. The bottom line is that you need to know the rule in your state.

Personal Bonds Not Valid For Appeal - Texas

The defendant was convicted of felony possession of methamphetamines and sentenced to five years community supervision. A \$10,000 surety appeal bond was set. The defendant argued she should be able to post a personal bond instead of a surety bond. The trial court held that according to Texas statutes, a criminal appeal bond must be from a surety and may not be personal. The defendant argued that the law was unconstitutional. The Appellate Court held that the state legislature was permitted to distinguish between defendants awaiting trial and those that had been convicted. Consequently, the state legislature could allow pre-trial defendants to have personal bonds, but require post-conviction defendants to have surety bonds. *Henderson v State* (Tex. App. 2007)

Lesson Learned – In Texas, only sureties may post criminal appeal bonds.

Proof of Recovery Efforts Required for Remission - Ohio

On February 13, 2006, the defendant failed to appear in Stark County, Ohio for a required court hearing. The \$25,000.00 bond was forfeited and the court gave the bondsman until June 19, 2006 to recover the defendant. The defendant was not recovered by that date so the bondsman paid the bond forfeiture. On August 9, 2006, the bondsman found the defendant and returned him to the Sheriff. The bondsman then sought a remission of the paid forfeiture. The trial judge relied on a Stark County local rule that allows a 25% remission if a defendant is returned to court within 60 days. The court granted a 25% remission and refunded \$6,250.00 to the bondsman. On appeal, the bondsman argued that he should have received a larger remission.

The appellate court held that a motion to remit is within the trial judge's discretion and that the following factors should be considered:

1. The circumstances surrounding the reappearance of the defendant
2. The reasons for the defendant's failure to appear
3. The inconvenience, expense, and delay to the prosecution
4. Whether the surety was instrumental in returning the defendant
5. Mitigating circumstances
6. Whether "justice requires the total amount of bond remained forfeited."

The appellate court concluded that because the bondsman failed to make any of these arguments at the trial court, he waived them and thus the trial court was affirmed. *State v Munn* (Oh. App. 2007)

Lesson Learned – Arguments that are not made at the trial court cannot be made for the first time on appeal. As such, be fully prepared with all of your arguments and evidence when seeking a remission at the trial court, and hire good legal counsel.

Continued on page 7

Continued from page 6

Bond Discharged Automatically After Six Years – New Jersey

In November 1998, the surety posted a \$50,000.00 bail bond. In September 1999, the defendant failed to appear. The bond was not forfeited and no notice was given to the surety until October 2004. The trial court entered judgment against the surety in January 2005. The surety appealed and the case was reversed. Under N.J.S.A. 2A:162-5, “a surety’s obligation on the bond it issues is finite: it is limited to six years unless it is earlier discharged or forfeited. The surety’s receipt of the bond premium does not extend its liability into the limitless future.” The appellate court held that because the judgment of bond forfeiture was not entered within six years of the posting of the bond, the surety was discharged and not liable for the forfeiture.

Lesson Learned – In some states, the bond is discharged after a certain period of time, even if the case was not resolved or the bond was forfeited. These statutes are uncommon, but do exist in a few states.

Surety Liable Even When the Notice of FTA Is Not Sent Within Statutory Period – Michigan

A \$20,000 bond was posted. The defendant pled guilty, but failed to appear for sentencing in September 2003. Six months later, the court gave its first notice of the FTA to the bondsman. The trial court forfeited the bail, but agreed to reduce the forfeiture to \$18,400 because of the delay. The bondsman appealed and relied on M.C.L. 765.28, which states that the court “shall give each surety immediate notice not to exceed seven days after the date of the failure to appear.” The surety argued that because the trial court did not give notice to the surety for six months, the surety should be discharged. Unfortunately, the Appellate Court held that although the statute uses the term “shall” in setting forth the trial court’s duty to give notice, the statute does not have a provision stating that the surety is discharged if notice is not sent within seven days. Consequently, the surety was liable for the forfeiture despite late notice. The Appellate Court further held that the trial court did have discretion to order payment of less than the full amount of the bond. In *Re: Forfeiture of Bail Bond* (Mich.App. 2007).

Lesson Learned – In Michigan, a bondsman can be liable on an FTA even if the court gives late notice. As such, bondsmen should actively monitor their defendants to determine if an FTA occurs.

Surety Not Automatically Discharged When Defendant Arrested On New Charges Outside County – California

A \$100,000 bond was posted for the defendant on December 13, 2004 in San Francisco. On December 16, 2004, the defendant was arrested in San Mateo County on new charges. On that same date, the defendant failed to appear at his preliminary hearing in San Francisco. As a result, the bail was forfeited. The bondsman quickly learned about the defendant’s arrest and contacted the defendant’s attorney. The bondsman was told by the attorney that the defendant would be pleading guilty to the San Mateo County case, and then would be transferred to San Francisco. The bondsman further stated that he was told by the defendant’s lawyer that the San Francisco District Attorney was aware that the defendant was incarcerated in San Mateo County. Only July 26, 2005, after the 180-day statutory period had passed, the trial court entered summary judgment against the surety. On September 6, 2005, the surety filed a motion to set aside the summary judgment and exonerate the bail. The trial court granted the motion. The County appealed and won a reversal. The Appellate Court held that a motion to set aside a forfeiture must be filed during the original 180-day period (or during the 180-day extension) and not thereafter. The Court further held that Penal Code §1305(c)(3) did not exonerate the surety in this case. That section provides that, if outside the county where the case is located the defendant is arrested “in the underlying case” within the 180-day period, then the trial court shall vacate the forfeiture and exonerate the bail. Although a recent California appeals court held that in those circumstances there is no time limit on the surety to move to vacate the forfeiture, the Appellate Court held that §1305(c)(3) did not apply in this case because the defendant was arrested on “new charges” and not the “underlying case”. As a result, the surety was required to pay the full forfeiture amount. *People v American Contractors Indemnity Co.* (Ca. App.1.Dist. 2007)

Lesson Learned – In California, a bondsman must file a Motion to Vacate or Extension of Time within the 180-day Period (or 185 days if the Notice of Forfeiture is mailed). If the defendant is locked up in another county on new charges, the bondsman is not automatically discharged. The bondsman must take certain steps before the 180-day period expires: (1) inform the District Attorney’s office and the court where the bond was issued of the defendant’s whereabouts, (2) have the warrant served on the defendant at the jail, and (3) file a motion for release from the forfeiture. ■

FAMILY

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