



A New Year ... and the Promise of Unity!

As most of you know, our company has long been a supporter of the Professional Bail Agents of the United States (PBUS), as well as many state and local bail agent associations. While there have been ad hoc groups of bail insurance companies working together on various projects (mostly on an emergency basis), for a number of years there has not been in place a wholly inclusive national bail insurance company association to address industry-wide issues and opportunities throughout the country. That is, until now!

I am pleased to report that a new - all are welcome - bail insurance company association has been formed using the familiar name, the American Bail Coalition (the Coalition). Effective January 1, 2010, the Coalition has started working to:

- Inform decision makers and the public of the tremendous benefits of commercial bail;
- Expand the use of commercial bail and its related products; and
- Better the bail industry as a whole.

The Coalition consists of the majority of bail underwriters in the country, including Lexington National. The Coalition's Executive Director - Dennis Bartlett - is no stranger to the bail industry and brings not only a wealth of bail industry knowledge, but

also considerable legislative experience. If you want to visit the Coalition's website, it can be found at www.american-bailcoalition.com.

Although the majority of bail insurance companies joined the Coalition, unfortunately a few companies elected not to join ... at least not yet. While I have considerable respect for my colleagues that have declined to join the Coalition, I am openly imploring them to reconsider - or at least remain open minded to joining - as unity can only strengthen our industry and allow us to further its mission. I am of course mindful that a prior association - the National Association of Bail Insurance Companies (NABIC) - was disbanded for a number of reasons and some who participated in NABIC still harbor resentment for its demise. Lexington National was a member of NABIC and I personally bore witness to its regrettable demise.

Instead of remembering what may have been bad about NABIC and thus refusing to participate in a much needed association, I believe that we should recall the considerable good that NABIC did - as well as the achievements made by the various company groups thereafter - and build upon all of the positives, so that the Coalition is truly successful in enhancing the bail industry. Our industry not only faces considerable challenges, including ill

advised national, state and local initiatives to expand inefficient taxpayer funded pretrial services, but also has tremendous opportunities. In my view, disjointed efforts or those that evolve only under urgent circumstances cannot produce the same good as a cohesive, all-inclusive association.

In furtherance of our mission, the Coalition members have vowed to "check their egos" and have developed operational measures to insure that the Coalition can be successful. The alternative - essentially to do nothing - was not, in my view, the right path; and so Lexington National - and I personally - have put our full support behind this initiative. In short, it is better to have tried and failed, than never to have tried at all!

If you are an agent for a company that is not participating in the Coalition, I encourage you to speak with your company in an effort to persuade them to join. In closing, the preservation and enhancement of our industry is at stake and, now more than ever, unity is needed. ■

Lexington National Provides Expertise and Compassion

Every day, the Lexington National team works hard for our agents and their clients to make the bail process as painless as possible. On large bonds, the process can often be complicated.

In 2005, we worked with California General Agent Glenda Stroobant to write a \$750,000 bond on a "cold case" murder charge. The case did not end until October 2009, when prosecutors dropped all charges. We recently received this thank you e-letter from the defendant and his wife:

Dear Glenda, Brian, and Kim...

We've been wanting to write this note for two weeks now, but we're still recovering from our near-four-year ordeal finally being over.

When this all started for us in November 2005, I had no idea of how to tell a good bail bonds service from a bad one. Through a recommendation from another lawyer, I was told, "Don't even consider using anyone other than Glenda's Bail Bonds." I believed her and immediately made contact to start the process going. This is what I experienced over the past four years:

1. *Glenda Stroobant IS THE BEST. She grabs on and never gives up. Nothing gets in her way of getting the job done, and she assures her client that all will be well forever. She is available 24/7 and over and over explains why her business is the best. She kept stressing the fact that they charged nothing after the first year, unlike other bail bonds services. I didn't think that mattered, since I was sure this whole mess would be over in six months or less!! Well, if we had gone with any other company, we would have had to file for bankruptcy by now.*
2. *Brian Frank IS THE BEST. He worked with me and our lawyer friend under very tight and trying time limits when I was sure we couldn't make the bail. He probably literally saved our lives because if Lou had had to stay in jail all this time, one or both of us wouldn't have made it. Brian went way out of his way to get the bail as low as he could and string out the payments for about six months. He was very flexible in allowing us to sell some assets in one year and some in the next year. Little did I know that selling all of our stock in 2005/2006 turned out to be to our great advantage because not one of those blue chip stocks has ever reached those prices they were worth back then!*
3. *Kim Marzullo IS THE BEST. Once Glenda and Brian got everything set up, Kim took over and made sure we were paid the proper amount of interest every month. In the beginning we were getting about 5% on our money and that made a big difference in our monthly income. Because this case dragged on beyond anyone's expectations, by the end we were getting 1% on our money and Wachovia had been bought out by Wells Fargo. Through all these years, Kim did her best to get us the best rates even as our economy was falling into the sea. She was always available and ever helpful. We talked every month and tried to pick maturity dates on CDs that would match a moving target. She really helped make an unbearable situation bearable, and I will never forget her excellent customer service and caring about our plight.*

Lou and I thank you all more than you will ever know. You were the part of our "team" that always came through and made us feel that you cared, and we will thank you forever for the excellent job you did.

Sincere regards,

Sue and Lou Stanley



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.

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Contact the editor Mark Holtschneider at mholtschneider@lexingtonnational.com or 1-888-888-BAIL. Deadline for next newsletter issue content: March 15, 2010.

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.

Putting the 'Pro' in Professional Bail Bondsman

by Maryanne Arthur



Dale Coburn believes anyone can achieve remarkable things if they just put a mind to it. After all, that's how he simultaneously built and operated three restaurants, managed a commercial construction business and pursued his passion for flying a helicopter and fixed wing aircraft while raising a family. And, that's how he retired 17 years ago to live on a sailboat floating amidst the Virgin Islands. Not surprisingly, Dale found retirement boring. At age 49, he returned to land and embarked on a new challenge—the bail bond business. Recently, Dale 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?

I'm fortunate my family works with me because some folks just don't understand the hours and time it takes to handle all the details in this business. My daughter *Che'ryl Conrad* works with me full-time as Office Manager. My son *David* joined us six years ago. He handles sales, writes bail bonds and works in the field wherever he's needed. And, my oldest son *Dale Jr.* worked here for awhile, but now has moved into the oil business.

How did you get started in the bail business?

In 1993, when I was looking for new challenges, a bondsman acquaintance of mine mentioned that the bail business might be fun. I agreed. So, I studied all the state and local insurance laws, passed my licensing test and went to work. I had no mentor and was forced to learn a lot fast. I spent countless hours standing in lines at the courthouse to be sure I'd written bonds correctly. There were no continuing education classes back then, which means, I learned all facets of the bail business on my own.

One of my favorite stories is about tracking down a bail jumper. One day,

while I was driving to the landfill, I spotted a guy who'd jumped bail. I began pursuit and called local law enforcement for backup. By the time officers caught up with us, I had left a trail of garbage bags all through the neighborhood. After the arrest, I retraced my route to pick up all the trash.

Describe your relationship with Lexington National?

A year ago, I began looking for an insurance company to help with the financial burden of putting my property up for collateral. I really liked the family atmosphere at Lexington National. When I met Brian Frank, Randy Parton and Mark Holschneider, I knew I was in the right place. These are great people who are always there for me. I'd recommend the company to anyone.

How do you obtain new business?

We are the home of the 'Bond Mobile'. One of the most unique ways we promote our business is through our custom wrapped company vehicles that make house calls. We are a mobile bail bond service that meets with our clients wherever they choose. We also do the usual Internet and Yellow Book advertising. By far, our strongest marketing comes from repeat business and word-of-mouth referrals.

What part of your business makes you most proud?

Professionalism. When I started this business, I wanted to project a positive image of a bail bondsman. I've taught my son and daughter to always treat clients with respect. Be professional, courteous and helpful because there are a lot of good people out there who get into trouble and need our help.

Giving Back. I believe if I'm successful, I have a responsibility to give something back to others who are less fortunate. Through my work with the Professional Bondsmen of Harris County, I've helped raise thousands of

dollars in support of "Be an Angel", a non-profit organization that furnishes durable medical equipment to special needs kids. And, I've been active in state and local politics to affect the future of the bail bond profession.

Good advice for other agents.

First, experience all facets of the bail business so you know and understand when something is not right. Be active in politics that influence the outcome of our profession. Be prepared to work very hard to be successful in this business. Finally, always be professional and build lasting relationships. ■

Dale Coburn is the owner of Professional Bail Bonds in Texas. He is president of the Professional Bondsmen of Harris County, TX; and member of the Professional Bondsmen of Texas and Professional Bondsmen of the United States. Contact Dale at 281-541-3552 or dalecoburn@sbcglobal.net.

Did You Know?

Given the state of the economy, it should come as no surprise that personal bankruptcies increased by more than 30% in 2009. The surge in filings was largely driven by foreclosures and job losses. Most of the filers are seeking Chapter 7 protection instead of Chapter 13. Under Chapter 7, all assets are liquidated to pay off as many debts as possible. Unpaid debts are discharged. Under Chapter 13, the consumer enters debt repayment plans in exchange for keeping certain assets. The bankruptcy filings in 2009 included more middle class and high income earners than in prior years. ■

Out and About at the 2009 LNIC Holiday Party in Baltimore



Skip Stroobant and Mark Holtschneider



Fred & Phyllis Frank



Steven Shinsky - The DJ



Terri Marquess, Dennis Fulton, Lisa Slater



Renell Pedigo and Randy Parton



Dave and Karen Bourne with Keith and Kim Bourne



Pictures of gifts donated

Employee Spotlight: **Tami Barksdale**



“Tami Barksdale redefines multi-tasking!” exclaims Randy Parton.

With nearly 10 years experience as manager of a 22-agent bail bond agency in Virginia, Tami Barksdale knows how to keep things organized. Her transition to Lexington National in 2009 was sparked by her familiarity with the company and industry savvy.

As one of the newest members of Lexington National’s team, Barksdale works exclusively with Randy Parton, assisting agents across the country with tough bail issues. She tackles detailed investigative work, such as reviewing case histories, performing audits and updating forfeiture reports, to help clients remain compliant with bail laws and Lexington National’s expectations. Some issues can be resolved with a phone call; others might take years to finalize. Either way, Tami doesn’t mind.

“I enjoy what I do,” said Barksdale. “It’s something different every day...I really enjoy building rapport with clients, courts, law enforcement and others. I feel it’s my job to make sure everyone is content and comfortable.”

As part of her routine, Barksdale often hops a plane across country to help clients work toward solutions to their bail business concerns. Lexington National’s LexBail system is an accurate, time efficient

way for her to assist agencies. With remote login access, Barksdale can review and print reports, receive forwarded work from agents and input data with a single keystroke.

“I wouldn’t be able to do my job without it,” Barksdale admits.

And Randy Parton might not be able to do his job without Tami’s knack for organization and passion for helping others. “She is a tremendous asset to bail agents and our organization,” he said.

Beyond the bail agency, Barksdale is a professional belly dance instructor, who has been entertaining and teaching for years. Recently, she volunteered to teach belly dancing to a group of young ladies at their 60th high school reunion. She is also a public notary and a self-employed floral designer/decorator. With such zest for life, undoubtedly, Tami Barksdale will continue to shimmy her way into people’s hearts. ■

Giving Back

Each December, the Professional Bondsmen of Harris County TX, led by Lexington National agent Dale Coburn, rally and host a holiday gala/live auction to benefit “Be an Angel” organization. In 2009, the event raised \$34,000 to purchase durable medical equipment, such as wheelchairs, for special needs children. Thank goodness angels like Dale and his group keep watch over Texas’ youngsters!



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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.

Fugitive's Motion Dismissed – California

Long time fugitive Roman Polanski, recently filed a Motion to dismiss the charges against him in a California trial court. Polanski argued that there was judicial and prosecutorial misconduct while his case was pending in 1977. Polanski plead guilty, but failed to appear for sentencing in 1978. He has been a fugitive in Europe since that time. The trial court refused to rule on Polanski's argument based on the "Fugitive Disentitlement Doctrine". Under that Doctrine, a court may dismiss a Motion or Appeal from a fugitive. Under this long standing rule, a fugitive cannot ask for the aid of a court while he remains in contempt of the court's orders by being a fugitive. The Doctrine is designed to uphold the integrity of the court and to serve as a deterrent to bail jumping. Fugitive disentitlement is not an automatic rule, but rather is a discretionary rule of the courts. In this case, the appellate court found that the trial court did not abuse its discretion in refusing to rule on Polanski's motion. *Polanski v. People* (CA.2nd App. 2009).

Lesson Learned: The Fugitive Disentitlement Doctrine is one more argument to use in trying to get a fugitive to turn himself

Tax Wisdom of Solomon: 2010 Tax News and Changes

by Eric M. Nislow, CPA



Happy 2010! As we begin a new year, with the hopes of a continuing economic recovery, the Internal Revenue Service is doing its part to help and has made some changes to help taxpayers. We highlight some items that you may need for 2010 below:

FICA Changes

In 2010, there was no Cost of Living Adjustment made. With that being the case, there is no increase in maximum income subject to Social Security Tax. The maximum amount of wages subject to Social Security Tax remains the same at \$106,800. There is no limit for Medicare.

Health Savings Accounts

Individuals can now increase their contribution to their HSA accounts. In 2010, the maximum HSA contribution increases to \$3050 (\$6150 for family coverage). For HSA purposes, the minimum annual deductible of a High Deductible Health Plan is \$1200 (\$2400 for family coverage) and the maximum annual deductible and other out-of-pocket

expenses limit increases to \$5950 (\$11,900 for family coverage).

Retirement Plan Contributions

The maximum annual elective deferrals for 2010 remain the same as 2009. The 401(k) plan and the Roth 401(k) plan have a maximum of \$16,500. The Simple IRA and 401(k) remain at \$11,500.

First-Time Homebuyer Credit

The \$8,000 credit for first time homebuyers has been extended until April 30, 2010. If a purchaser enters into a binding contract prior to April 30, 2010, he/she has until June 30, 2010 to settle on the property. Keep in mind, if the purchaser does not qualify as a first time homebuyer, he/she may be eligible for the \$6,500 "long-time resident" credit if he/she has the same home as a principle residence for five consecutive years in an eight year period.

Mileage Rates

The mileage rates remain the same in

2010 as they were in 2009. The standard, business use of a vehicle is 55 cents per mile driven. Medical miles and moving miles remain at 24 cents per mile. Miles driven for charitable purposes are 14 cents per mile.

Registered Tax Preparers

The Internal Revenue Service has set a new registration regulation for income tax preparers. In an effort to make sure the taxpayer is receiving proper and legal instruction and support, the IRS is requiring that tax preparers be registered. Please check to make sure that you are using a qualified preparer.

Stay tuned as we will continue to keep you updated during 2010! ■

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.

in - if he remains a fugitive, he cannot file any motions or appeals with the court.

Defendant Leaving Country Does Not Exonerate Bond – New Jersey

The defendant was arrested and bail was posted before any court hearings. As such, no travel restrictions were imposed on the defendant. When the defendant attempted to cross the U.S./Canadian border, he was detained. The prosecutor's office advised the border security officials that it could not seek the defendant's return because there had been no FTA and the defendant had not violated any condition of his bail. The defendant was allowed to enter Canada. He subsequently failed to appear for court. The trial court forfeited the bond. The surety argued that the prosecutor's actions increased the surety's risk of loss. The trial court ruled against the surety.

The Appellate Division affirmed the judgment and held that the prosecutor did not increase the surety's risk and that, because the defendant had not been returned to custody, remission of the forfeiture would not generally be possible. *State v. Faswala*, (N.J. Super. A.D. 2010).

Lesson Learned: Always examine the pre-trial release conditions for your clients to determine what restrictions have been imposed.

Return of Defendant Before Show Cause Hearing Exonerates Bond - Ohio

The defendant failed to appear and the court set a date for a show cause hearing on forfeiture of the bond. The police arrested the defendant prior to the date for the hearing, but the trial court nevertheless refused to vacate the forfeiture and ordered payment of the bond amount. The surety appealed, and the Court of Appeals reversed. The Court held that entry of forfeiture when the defendant was in custody or had appeared before the date of the show cause hearing was an abuse of discretion. *City of Toledo v. Hunter*, (Ohio App. 2009).

Lesson Learned: In Ohio, the trial court must exonerate your bond if the defendant is rearrested before the show cause hearing. No other factors are considered.

Refusal to Allow Surrender Discharges Surety – Texas

After the bond was posted, the defendant moved to Oklahoma and failed to return the bondsmen's phone calls. The bondsmen then filed an affidavit under Texas Code Criminal Proc. Art. 17.19(a) requesting that an arrest warrant be issued for the defendant. The affidavit included all the items required by the statute. To prove "cause for the surrender", the bondsman stated in the affidavit that the defendant had not checked in, had not provided current contact information, and had not returned calls. The trial court refused to issue the warrant. The defendant then failed to appear. The bond was forfeited and the bondsman appealed. On appeal, the court held that the trial court erred and that the bond should have been exonerated. The appeals court held that the bondsman did not need to show "probable cause", but rather only needed to show cause. The court further held that the trial court had no discretion in refusing to issue that warrant and that the trial court's refusal to issue the warrant was an absolute defense to the bondsman. *Spears v. State*, (Tex. App. – Waco 2009).

Lesson Learned: In Texas, if you are concerned that a defendant may skip, you should request an arrest warrant. If the court refuses to issue a warrant, you should be discharged on the bond. Make sure to review the requirements of Texas Criminal Code Proc. Art. 17.19(a) when preparing your affidavit.

Bond Forfeited Because of Failure to Produce Evidence of Surrender – Louisiana

In October 2006, a bond was posted for a defendant charged with armed robbery. The defendant appeared for the first day of trial in September 2008, but then absconded. The surety allegedly apprehended the defendant a few days later and attempted to surrender him to the Vermillion Parish Sheriff. The surety alleged that the Lieutenant in charge refused to accept the defendant. At the forfeiture hearing, the only evidence presented by the surety was a document titled "Refusal of Surrender of Criminal Defendant." Unfortunately for the surety, there was no proof that the document was authentic – the Lieutenant did not sign the document and the recovery agent surrendering the defendant did not testify at the hearing. The surety also argued that similar documents had been accepted in the past. The trial court held that it had accepted similar documents in the past when there was no objection, but that in this case the State objected. The case was affirmed on appeal. *State v. Thompson*, (La. App. 2009).

Lesson Learned: Be fully prepared to present evidence at trial. All necessary witnesses should be at trial and subpoenaed if necessary. Consider how you will prove that each document is authentic. Remember that if you are required to appeal, the appellate court will only consider the evidence presented at trial, and you will not be allowed to put on new evidence on appeal.

Refusal of State to Seek Extradition Did Not Discharge Surety – Tennessee

A \$50,000 bond was posted for a Somalia national defendant charged with attempted murder. The defendant failed to appear and a conditional forfeiture of the bond was taken. At the final forfeiture hearing, the bondsman testified that his investigators believed the defendant was in Sweden, but had not determined his exact location because the prosecutor had indicated that he would not seek extradition. The bondsman further testified that he would assume all expenses associated with returning the defendant for trial. The State presented evidence as to the difficulty and cost of obtaining extradition. The trial court found that the surety had not confirmed the whereabouts of the defendant and that the defendant's "flight to another country is a foreseeable contingency when the bond was written." The trial court entered final judgment and the surety appealed. The appeals court affirmed the judgment and held that the State did not participate in the defendant's failure to appear and the surety assumed the risk that the defendant would flee when it wrote the bond. The fact that the State was unwilling to seek extradition did not absolve the surety of its responsibility for breach of the bond. *State v. Yussuf*, (Tenn. Crim. App. 2009).

Lesson Learned: In many states, a surety is not discharged simply because the defendant leaves the country and the prosecutor refuses to seek extradition. Consequently, all defendants with connections outside of the U.S. should be underwritten strictly. ■

Studying Your Options?

If you need an insurance company that understands your bail bond business, then you're looking in the right place. At Lexington National, we know BAIL.

We are bail bondsmen with more than 60 years of "retail" experience. While some insurance companies juggle bail bonds with construction bonds, court bonds and homeowners insurance, we focus only on BAIL BONDS. It's simply what we do.

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