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# New York City Is Owed More Than \$2 Million in Delinquent Forfeitures

By JOHN ELIGON

Bail bondsmen operate under a fundamental premise: Make sure the people bailed out show up to court, or else pay up.

But some bondsmen have regularly failed to maintain their end of the bargain.

New York City is owed more than \$2 million in about 150 cases in which judges ordered the bail money forfeited, according to data provided last week by the district attorneys' offices in Manhattan, Brooklyn and the Bronx. Some of the forfeitures date to a decade ago, the data showed.

"If an insurance company knows that it can go for an extended period of time without the defendant appearing in court and without having to pay off on the bond," said Peter Kougasian, a bureau chief with the city's special narcotics prosecutor who has overseen bail applications, "then there is no financial incentive for that insurance company to expend any resources or make any effort to ensure the defendant's return to court."

The problem of unpaid forfeitures has received attention around the country. The issue is part of a larger concern over the transparency and effectiveness of bail bonds.

Many states do not regulate how much bondsmen hold as collateral, which is supposed to be the incentive for defendants to show up to court. In some jurisdictions, bondsmen are not required to reveal how much collateral they collect, and in others they have lied to courts about how much they have received.

It became a heavily publicized issue in Washington State in 2009 after details emerged that [Maurice Clemmons](#), a repeat felon who killed four police officers in Lakewood, Wash., had paid only \$8,000 to get a bond company to post his \$190,000 bail less than a week before the shooting.

“The judges have got to know what their bail setting really means,” said Mike Carrell, a Republican state senator in Washington who served on a task force examining the issue. “Otherwise, the whole system is a sham.”

A little more than 1,000 people in New York City were charged with jumping bail in 2009.

Although the district attorney’s office in each county in New York is responsible for pursuing companies that owe bail forfeitures, the offices’ collection efforts can be limited. It is often more expensive to go after a forfeiture in civil court than to let it remain unpaid.

The Insurance Department might be in the best position to crack down on unpaid forfeitures; it can suspend the ability of a bondsman or insurance company to do business in the state.

But when shown lists of unpaid forfeitures provided by the district attorneys’ offices, officials with the department said they had never seen the lists and did not know that such lists existed. Queens and Staten Island reported no unpaid forfeitures.

Although state law allows judges to consider the “background, character and reputation” of insurance companies or bondsmen when deciding whether to accept a bond, a judge rarely denies bond because of unpaid forfeitures.

Unpaid forfeitures are generally attached to the insurance companies for which the bondsmen write. This has allowed some bondsmen to go unnoticed as they racked up long lists of forfeitures under multiple insurance companies.

Christian Diez, a bondsman, owes more than a half-million dollars in forfeitures of 18 bonds in Manhattan and Brooklyn, according to the data from the district attorneys’ offices. He has unpaid forfeitures dating to 2004 under four insurance companies.

Mr. Diez offered no explanation for his unpaid forfeitures, but said, “I’ve paid many other ones before.”

The insurance companies that owe the most money are [Financial Casualty and Surety](#), and [Safety National Casualty](#). Each has a tab exceeding \$300,000, the data showed.

Collateral is supposed to give bondsmen access to at least some of the money they may need to pay if a defendant jumps bail. But in an effort to generate business, some bondsmen have taken shortcuts, posting bonds with little or no collateral.

Such arrangements have advantages for both the bondsman and the customer. The customer has to put up less cash, while the bondsman still gets clients who pay premiums.

But because judges would be reluctant to accept a bond with little or no collateral securing it, some bondsmen have been suspected of lying in court papers about how much collateral they received.

The Insurance Department received a complaint in 2010 accusing Empire Bail Bonds of falsely representing in a court affidavit that the company had received \$1,000 in collateral on the \$10,000 bail bond of a defendant named Juan Sanchez. Suspicion arose over discrepancies about who supposedly paid the collateral.

A receipt given to someone who signed for the bond, Elmira Tashkent, indicated that no collateral had been paid. Empire's owners explained the lack of collateral by saying that Mr. Sanchez's lawyer, Mitchell Elman, had paid it, and the company presented as proof a receipt made out to Mr. Elman.

But that receipt appeared to contradict Empire's court affidavit, which said a woman named Marta Salgado paid the \$1,000 collateral, raising questions of whether the receipt made out to Mr. Elman was falsified and whether anyone paid the \$1,000. State law requires the affidavit to accurately list what collateral was posted and by whom.

Michelle Esquenazi, an owner of Empire, said that Ms. Salgado posted separate collateral, that Mr. Elman provided the \$1,000 and that the omission of his name from the affidavit was a clerical error. The Insurance Department closed its investigation without finding wrongdoing by Empire.

Juan Villar, a former bondsman who pleaded guilty in 2009 in Manhattan to filing false records and was sentenced to six months in jail, claimed in bond affidavits that he had collected more collateral than he actually had.

Two men who worked for Aable Bail Bonds, Kisha Dunkley and Andrew Wright, were arrested in Brooklyn in September on similar charges of lying in court documents about how much collateral they took on bail bonds.

Steven Nachman, head of the State Insurance Department's frauds and consumer services bureaus, said the department was considering imposing new regulations that would not only create accounting requirements for the bondsmen, but would also require the insurance companies to keep tighter control of the finances of their bail-bond agents.