Federal seizures anger right and left

By Stewart Powell, Hearst Newspapers

A nationwide network of agents and attorneys is working around the clock to seize cash, stocks, real estate, vehicles and other valuables from people and businesses.

In 2012, their average daily take was almost $13 million – for a total of more than $4.7 billion.

The vast money-harvesting machine they work for? The federal government.

Federal asset forfeiture is both an effective crime-fighting tool and a civil-liberties nightmare, a Hearst Newspapers investigation has found. It has retrieved millions of dollars stolen from victims of complex financial crimes. But it has also victimized innocent citizens who have lost their property without criminal charges or even a courtroom hearing.

Fifteen federal agencies have the power to seize assets. Over the past dozen years, those agencies have taken more than $20 billion in cash, securities and other property from scruffy drug dealers, pinstriped Wall Street tycoons – and ordinary Americans who have not been accused of a crime, much less convicted.

“The government is going seizure crazy,” said attorney Philip Hilder, former head of the Houston field office of the Justice Department’s organized crime strike force. “Law enforcement budgets are shrinking. … The government is counting on budgets being supplemented by these seizures.”

In 2001, seizures totaled $640 million. In the next decade, the total increased by 641 percent.

Once used mainly against mobsters and drug dealers, forfeiture is now employed in many contexts. About a dozen recent mega-cases – each taking $100 million or more – involved assets forfeited by cybercrime rings, offshore gambling scams, and banking and corporate miscreants.

The expansion of forfeiture has brought criticism from civil-rights advocates on the left and libertarian, anti-big-government activists on the right. But there is little impetus to change the system because of the enormous cash flow it generates for seizing agencies.

Federal agents often pursue forfeiture through sealed documents – or avoid the court system entirely by seizing assets without charging the owners with any crime, a procedure called administrative forfeiture. The result: thousands of cases each year where the feds take cash, guns or other items from U.S. citizens without fact-finding by a jury or oversight by a judge.

When seizure cases do reach the courts, they have often been criticized by judges as examples of government intrusion and overreaching.

Nowhere has the federal government's formidable asset-seizure operation been on more prominent display than across California, where four U.S. attorneys appointed by President Obama are threatening landlords who lease space to medical marijuana dispensaries. California is among the 18 states and the District of Columbia that have legalized medical marijuana; the federal government has considered it a controlled substance since 1970.

The unprecedented campaign has closed hundreds of dispensaries across the state, leaving about 1,000 still in operation, according to advocacy organizations.

One of the largest targeted is Oakland's Harborside Health Center, a large operation that provides more than $20 million

worth of products a year to almost 108,000 patients. The case is heading toward trial after U.S. Chief Magistrate Judge Maria-Elena James rejected an attempt by the city of Oakland to protect the community enterprise from the Justice Department onslaught.

The practice has ensnared more than dispensary landlords.

Russ and Pat Caswell have owned their mom-and-pop motel in Tewksbury, Mass., for three decades. They live next door, and the motel with $56-a-night rooms is both their livelihood and their life savings. The Caswells own it outright, with no mortgage.

That made it all the more attractive to the federal government.

The couple were shocked when the feds filed papers to seize the motel in 2009, based on an assertion that frequent drug activity occurred there.

Veteran Drug Enforcement Administration agent Vincent Kelly testified that his job as the asset-forfeiture specialist in the DEA's Boston office was to locate properties allegedly being used for criminal purposes that carried little or no debt, making them lucrative forfeiture targets. So he singled out the Caswells' motel.

After years of legal fighting, U.S. Magistrate Judge Judith Gail Dein heard testimony that only 15 low-level drug cases had been recorded at the motel over a seven-year period, during which the Caswells logged 196,000 room rentals.

The motel, valued at between $1.5 million and $1.8 million, would have been a bonanza for the Tewksbury Police Department, which stood to gain 80 percent of the proceeds under its arrangement with the DEA.

In denying the forfeiture this year, Dein rebuked federal

prosecutors. “Having failed to notify Mr. Caswell that he had a significant problem, and having failed to take any steps to advise him on what to do, the government’s resolution of the crime problem should not be to simply take his property,” she concluded.

Forfeitures provide agencies a self-sustaining source of money for a variety of law-enforcement expenses, including running the forfeiture programs themselves, without relying on Congress to appropriate taxpayers’ money.

“Asset forfeiture can be a valuable tool, but it can also be abused,” said Sen. Charles Grassley of Iowa, the ranking Republican on the Senate Judiciary Committee. “It seems like there are places where we can take a hard look to improve the program instead of simply providing a slush fund for the federal government.”

Some seized assets, such as vehicles and electronic equipment, are directly transferred to law-enforcement use. Others are sold, the proceeds often shared among federal agencies and local or regional law-enforcement entities.

A portion of the take has been handed off to victims of the crimes, including families swindled out of savings by financial wheeler-dealers such as Allen Stanford, serving a 110-year prison sentence for running a Ponzi scheme, and Bernard Madoff, serving a 150-year sentence for bilking investors out of at least $18 billion.

Justice Department records show it has distributed an average of $300 million a year to victims over the last decade – and $1.5 billion to more than 400,000 victims over the past 16 months, much of it seized from Wall Street scammers. Among the latest beneficiaries: 8,727 victims of the Adelphia Communications fraud who divvied up $729 million and 128,200 victims of the Enron securities fraud, who received shares of $65 million.

Little scrutiny of seizures

Attorney General Eric Holder, whose department has booked the largest increase in seized funds, said federal forfeiture “has been transformed from a collection of centuries-old laws designed to fight pirates, enforce customs laws and fight illegal contraband into an array of modern law-enforcement tools designed to combat 21st century criminals both at home and abroad.”

The Justice Department released limited data about the past three years of asset-forfeiture cases in response to a public records request by Hearst Newspapers. The department declined to link the data to court cases with the docket numbers needed to track individual cases. The Treasury Department refused to release any data for the five law enforcement agencies that report to the Treasury Forfeiture Fund. Follow-up requests to the individual agencies under Treasury resulted in only one — the Secret Service — releasing data.

The federal agencies also often actively undermine tough state laws designed to prevent agencies from policing for profits.

Eight states bar the use of forfeiture proceeds by law-enforcement agencies. In the 42 other states, at least 50 percent of forfeiture proceeds can go to the seizing agencies — including 26 states that allow 100 percent of the proceeds to go to law enforcement. California allows 65 percent.

But even the states with tough laws can do nothing when the federal government decides to award proceeds from federal cases — often as much as 80 percent of the take — directly to local agencies. Therefore, agencies in those states frequently seek out the feds’ assistance in forfeiture cases.

That happened to Steven Skinner and Jonathan Breasher, a father and son, who were headed to Las Vegas in September 2010 when they were stopped by a New Mexico state trooper for driving 5 mph over the limit. The trooper issued a written

warning for speeding, got permission to search their rental car, and found $16,925 in cash in their luggage. He notified the Drug Enforcement Administration and other federal agencies, then released the pair.

When the father and son got to Albuquerque about 230 miles later, local police pulled them over, saying they had made an improper lane change. The police officer summoned an officer from U.S. Customs and Border Protection, who seized the cash and the car. Neither Skinner nor Breasher was charged with a crime.

Turning the case over to the federal officers bypassed New Mexico's stringent restrictions on policing for profit, which require seized assets to be deposited in the state's general fund rather than in the coffers of the seizing agency.

The New Mexico chapter of the American Civil Liberties Union intervened to win back the seized cash after a two-year battle.

Despite controversy over aspects of the federal forfeiture machinery, there is little push within the federal government to revamp the process.

Justice and Treasury department forfeiture officials have said only that they are willing to "study" Government Accountability Office recommendations to streamline operations, without committing to consolidation that the agency first sought in 1990.

"The forfeiture system is running itself," said Brenda Grantland, a prominent forfeiture defense attorney in Mill Valley. "I don't think it matters who is president. Prosecutors have so much autonomy, they're free to seize whatever they want."

9 people survive when boat capsizes in Lake Tahoe

By Kathryn Reed

Nine people are lucky to be alive after their boat was swamped with water and overturned in Lake Tahoe on Saturday.

When El Dorado County's boat team arrived about one mile off shore from Dollar Point they found six people clinging to the hull of the boat, while three had been pulled on board a sailboat.

Sheriff's Lt. Pete Van Arnum told *Lake Tahoe News*, "These people were from out of the area. They didn't know about the danger of Tahoe and wind."

Saturday was the most blustery of the three this holiday weekend. The boat patrol guys said it looked like the ocean on May 25.

Van Arnum also said the rental boat out of Sunnyside had "way too many" people for the size of watercraft, which was a ski boat.

Deputy Damian Frisby jumped in the frigid water to put life jackets on some of the people and assisted one woman to the sheriff's boat. All had been in the water about 40 minutes before being pulled out by the sheriff's and Coast Guard teams just after 2pm.

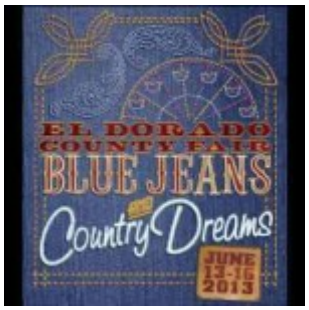
Van Arnum did not have the ages of those who were rescued or their hometown. All were taken to the hospital to be treated for hypothermia.

The sheriff's search and rescue team was busy Sunday night with two incidents. One rescue was near Mt. Tallac and the other above Echo Lake in Desolation Wilderness. Everyone was successfully rescued.

Win tickets to see variety of competitions at El Dorado County Fair

The 2013 Eldorado County Fair has a slew of activities planned for the June 13-16 event in Placerville.

Lake Tahoe News wants to make sure you get there. So, here is how you win a pair of tickets. As a comment, write your favorite memory of any fair. Then we will randomly pick a winner in the next few day.



Here are some of the events at the fair:

Teen Jam is back again. If you are in high school or younger and are in a band, come rock out on the Budweiser Stage Saturday from noon to 5:45. Times are chosen on a first come, first serve basis, so call now to sign up, (530) 621.5860.

If you're not in a band, but still want to showcase your vocal talent, enter the El Dorado County Fair Idol. All contestants perform at the preliminary competition June 15 at 2pm. Three

finalists will be chosen to perform at the final competition on June 16 at 6:30pm on the Budweiser Stage. Call (530) 621.5860 by June 13 to pre-register.

For the ultimate competitor, Kiwanis of Placerville presents the 69th annual John M. Studebaker Wheelbarrow Races to challenge endurance, athleticism and strength. Pre-register before 4pm on June 16. Entry fees and prizes vary by age group. The event begins at 5pm.

For the ultimate competitor between the ages of 4 and 7 there is Mutton Bustin' on June 14 at 6:30pm.

For more information on all contests, call the fair office at (530) 621.5860, as space is limited in some contests.

Golf event helps South Tahoe Cancer League

The Moose Lodge of South Lake Tahoe South Lake Tahoe is raising much-needed funds for the South Tahoe Cancer League via the 8th annual Longest Day of Golf.

Golfers will start at sun-up and play as many holes as they can before sundown at Tahoe Paradise Golf Course. The golfers usually play approximately 120 holes and, over the past seven years, have raised more than $50,000 for the South Lake Tahoe Cancer League.

The event is June 12.

Contact Greg Kuntz at gkuntz@ltusd.org to donate.

For more information, contact the Moose Lodge at (530)

541.1632 between 2pm and 8pm.

Tahoe Tails – Adoptable Pets in South Lake Tahoe



Cleo

Cleo is a 4-year-old Treeing Walker Hound. She has a nice, soft bay when she gets excited, but she is a nice dog who is quite well-mannered.

And she has one blue eye and one brown eye.

Cleo used to live with lots of dogs and gets along well with them, plus she likes children. She would like to live with a family that will take her hiking and give her lots of exercise.

Cleo is spayed, microchipped, and vaccinated.

Go online to see photos and description of all pets at the shelter.

Call (530) 573.7925 for directions, hours, and other information on adopting a pet.

For spay-neuter assistance for South Tahoe residents, go online.

– Karen Kuentz

Cyclists to work on trail in Tahoe City

TAMBA will be hosting a trail day in Tahoe City on June 29 in conjunction with Adventure Sports Week.

Meet at 9am at Tahoe Cross Country at 925 Country Club.

Workers will ride to the work site off Forest Service Road 16N49 to finish a connector trail between that trail and the Tahoe Rim Trail.

Lunch will be provided as well as post work refreshments. The trail day is sponsored by Olympic Bike Shop and Gravity Shop.

Pony Express to ride through South Shore

The National Pony Express Association will conduct its annual re-ride of the Pony Express Trail from St. Joseph, Mo., to Sacramento June 17-27.

This ride is 24 hours a day, nonstop by more than 600 riders and horses covering the 1,966 mile route of the Pony Express

National Historic Trail from Missouri through Kansas, Nebraska, Colorado, Wyoming, Utah, Nevada to California.

The event commemorates the 1860-1861 Central Overland and California Pikes Peak Express Company which carried letters and telegrams for 19 months to prove the Central Route through Salt Lake passable year-round. The owners hoped to win a federal mail contract on that route. Pony Express history is preserved in the federally designated Historic Trail, administered by the National Park Service, in museums, Pony Rider monuments, books, and the annual recreations by the NPEA.

Riders will pass in front of Harrah's Lake Tahoe at Friday's Station to exchange the Mochila on June 26 at 11:30am.

Note: Anyone wishing to see the Pony Express riders should be aware that they may be anywhere from two hours ahead to two hours behind schedule.

Today, part of the Pony Express Trail route is a multi-use trail located near Sierra-at-Tahoe.

There are a few relay stations in South Lake Tahoe. One at Friday's Station, just east of Harrah's casino where the statue is today, and two others out in Meyers by Lira's Market and the Hawley Grade Trail. Another station is located at Woodfords near Markleeville.

Desolation Wilderness to be topic of library talk

Desolation Wilderness will be the focus of a talk by Bill

Finch.

Finch is a volunteer backcountry wilderness ranger for the U.S. Forest Service.

He will show slides which he believes best exemplify the natural beauty found near South Lake Tahoe as a way to prepare for the summer hiking season.

The free talk is June 15 at 1:30pm at the South Lake Tahoe Library, 1000 Rufus Allen Blvd.

For questions, contact Tahoe.Programs@gmail.com or (530) 573.3185.

Tahoe travel company connects people to the world

By Jessie Marchesseau

Marching with penguins in Antarctica, swimming with sea turtles in the Galapagos, standing atop an active volcano in the South Pacific. These are the things dreams are made of.

Taking that into account, one could say Tahoe City-based AdventureSmith Explorations specializes in making dreams come true.

Todd Smith founded the company in 2003 to introduce people to a relatively new kind of travel. Having worked on a small cruise ship in Alaska, been a wilderness guide and worked in eco-tourism, Smith had a passion for adventure travel. AdventureSmith was his way of helping others discover that passion, too.



AdventureSmith is about providing unique experiences for travelers. Photos/AdventureSmith

On the verge of its 10th anniversary, the adventure travel company served more than a thousand clients last year, with more than $3.5 million in total sales. That is a pretty big jump from just 56 bookings the first year.

AdventureSmith does not actually operate any tours or cruises. Instead, it acts as more of a wholesaler, booking small ship cruises and land tours with a variety of companies, offering expert advice and travel planning, and taking care of all the necessary paperwork along the way.

They will not book just any cruise, though. This is not a traditional travel agency where you call and ask for a cruise to the Bahamas. The company works almost exclusively with small-ship cruises, meaning generally between eight and 150 people per boat. Many of their destinations are not your usual cruise routes. Think Belize, Antarctica and Easter Island. Even then, trips are only added to the lineup upon personal approval from Smith or one of his staff.

“We won’t sell anything until we have experienced it firsthand,” he said. “Not every trip makes the grade.”

Small ship cruising is decidedly different from the major cruise lines that can fit upward of 3,500 passengers on their enormous oceanliners. The small ships AdventureSmith

specializes in can go to more remote places compared to big ships and are almost always equipped with kayaks and canoes for guests, and a naturalist onboard to offer knowledge and guidance about the surrounding area.

“The quality of the education of these trips is the equivalent of going to school for a week,” Parky May said.

May and his wife have done numerous trips through AdventureSmith, including Alaska, Mexico and the Galapagos. He said they do all their traveling these days exclusively as small ship cruises. Like many of the company’s clients, the Mays possess a certain curiosity and desire to learn about the places they are visiting.

In its first decade, AdventureSmith has received recognition for its expertise in expedition cruising and wilderness travel from *National Geographic Traveler, Outside* magazine, the Outdoor Channel and more. Smith has even been featured on television shows including “Lonely Planet” and “Jack Hanna’s Animal Adventures”.

However, the national recognition is not what keeps clients coming back again and again.



A small cruise ship plies the waters of Alaska

“We could do it ourselves, and have in the past, but it’s nice to know they will take care of every little thing,” said Mel

Weiss who, along with his wife, Paula, has booked at least half a dozen trips through AdventureSmith.

Weiss said he likes the fact that Smith and his staff have been to the destinations before and done this kind of traveling themselves. It adds a layer of trust for him. The couple recently returned from an expedition in Vietnam and Cambodia, but Mel Weiss, an anthropologist and world-traveler, declared Antarctica his all-time favorite: “It’ll blow your mind.”

In addition to the uniqueness of their travel offerings, AdventureSmith does something else a little out of the ordinary for a travel company. They call it “carbon free cruising.” Based on the gas, oil, mileage and a host of other factors, AdventureSmith calculates the amount of carbon emitted for each passenger on each trip they book. This is converted to a dollar figure which is then invested in climate-friendly projects around the world. The company is not required to do this, nor do they tack on an extra cost to their clients. Smith said it’s “just something we believe in.”

Though none of the company’s tours includes Lake Tahoe, and few of their clients are local, Smith has no regrets on choosing Tahoe City for the AdventureSmith home base.

“Me and my staff are very lucky to do what we do and go all these places around the world, but there’s nothing quite like coming home to Tahoe,” Smith said, “… it puts a smile on your face.”

Opinion: Questioning if it's ever OK to manipulate photos

By Margaret Sullivan, New York Times

A powerful picture taken by the Swedish photographer Paul Hansen last year, of men carrying the bodies of dead children through the streets of Gaza City, was artfully composed and filled with anguish.

But was it authentic? After it won a prestigious award, selected photo of the year by World Press Photo, questions arose about whether it was a digitally altered composite. Hansen denied that, and last week, World Press Photo confirmed that the image was genuine.

The challenge to the photo, called "Gaza Burial," illustrates a point: In news photography, manipulation of images is strictly forbidden. At the Times, such rules have been stated and vigorously enforced for many years. Whether from the South Bronx or Syria, news photos must represent unaltered reality.

That hasn't changed, but in one corner of the *Times*, different rules prevail.

I stumbled across this last week when I wrote a blog post about readers' objections to a fashion photo spread in *T*, the monthly style magazine. I asked its editor, Deborah Needleman, about one objection: that the cover model was too skinny. She responded that she, too, felt that many models were too thin, and with this one she had considered "adding some fat to her with Photoshop."

John Schwartz, a *Times* reporter, was among the first to react. On Twitter, he called her comment "jaw-dropping." That reflected how deeply most journalists feel about the integrity of photographs.

“That is inviolate, and the standards are very clear,” Michele McNally, assistant managing editor for photography, told me. The *Times* does not stage news photographs, or alter them digitally.

But *Times* editors see the fashion photography in *T* as an exception. “Fashion is fantasy,” McNally said. “Readers understand this. It’s totally manipulated, with everything done for aesthetics.”

Philip B. Corbett, the associate managing editor for standards, agreed. “This is a different genre of photography,” he said. “It has different goals, different tools and techniques, and there is a different expectation on the part of the reader.”

When I followed up with Needleman, she too said that fashion magazines abided by different standards than news organizations do. In *T*’s fashion photography, she confirmed, “images are sometimes retouched,” she said. “Red taken out of someone’s eye, a wrinkle in a skirt smoothed, a model’s tattoo removed.” But even within *T*, various standards prevail. Only with “fashion/glamour photography” is manipulation allowable, she said. A travel article or personality profile would be subject to traditional rules.

These *Times* editors agree that readers’ expectations are important here. After all, no one opens Vogue with the expectation that they’re seeing Gisele Bundchen looking like she does when she wakes up. In a 2009 article in the *Times*, the style writer Eric Wilson noted how pervasive photo alteration was at fashion magazines: “It now seems fresh, even exclamation-worthy, when a magazine presents an unvarnished image.”

The editors are confident that readers know the difference.

But here’s the catch: *T* magazine is still a *New York Times* editorial product. Although it generates (and is intended to

generate) plenty of advertising revenue, its content is not "advertorial," that strange hybrid that looks like journalism but is actually advertising copy. *T* is produced by journalists who are part of the newsroom structure, and readers might reasonably have the expectations that standards are the same across the board.

I asked Stuart Emmrich, editor of the Styles section, about fashion photography there. He responded that Styles adheres to traditional rules: "We strictly forbid any altering or manipulation of photos that have been shot for Styles, including fashion shoots." I heard the same from Kathy Ryan, director of photography for the *Times* magazine, which also allows no manipulation. (In all cases, minor color-toning and brightening for production purposes are acceptable.)

Photos from outside sources may have been altered before they reach the *Times*, Emmrich said. "We can't control everything, but our photo editor does look closely to see if she can spot any heavy retouching," he said.

And sometimes, in various parts of the *Times*, the label "photo illustration" on what Ryan calls a "high-concept" picture makes it clear that this is not a rendering of reality. It is all part of making sure readers know that what they are looking at is authentic.

Granted, a dramatic news photo from the streets of Gaza is a far cry from a magazine's fashion spread. Maybe readers intuitively get the difference. But they may not. In the words of one surprised reader, Fred Zimmerman, "Is such doctoring allowed at the *Times*?"

Newspaper people sometimes assume too much about what readers know — for example, the difference between the opinions expressed in editorials and those expressed by a news-page columnist, or even the difference between a staff-written obituary and a paid death notice.

It would be best if all the photography produced by the *Times* newsroom could be held to the same standard. If that is deemed unrealistic for some parts of a fashion magazine, some transparency (and not the kind that has to do with gossamer fabrics) is needed. For example, a brief statement in each issue of *T* stating its photo practices would help.

Being forthcoming with readers is the answer to many of journalism's trickiest questions. The world of fashion photography — where a waistline may shrink or a tattoo may disappear at the tweak of a few pixels — is distinctive in many ways, but not in that one.