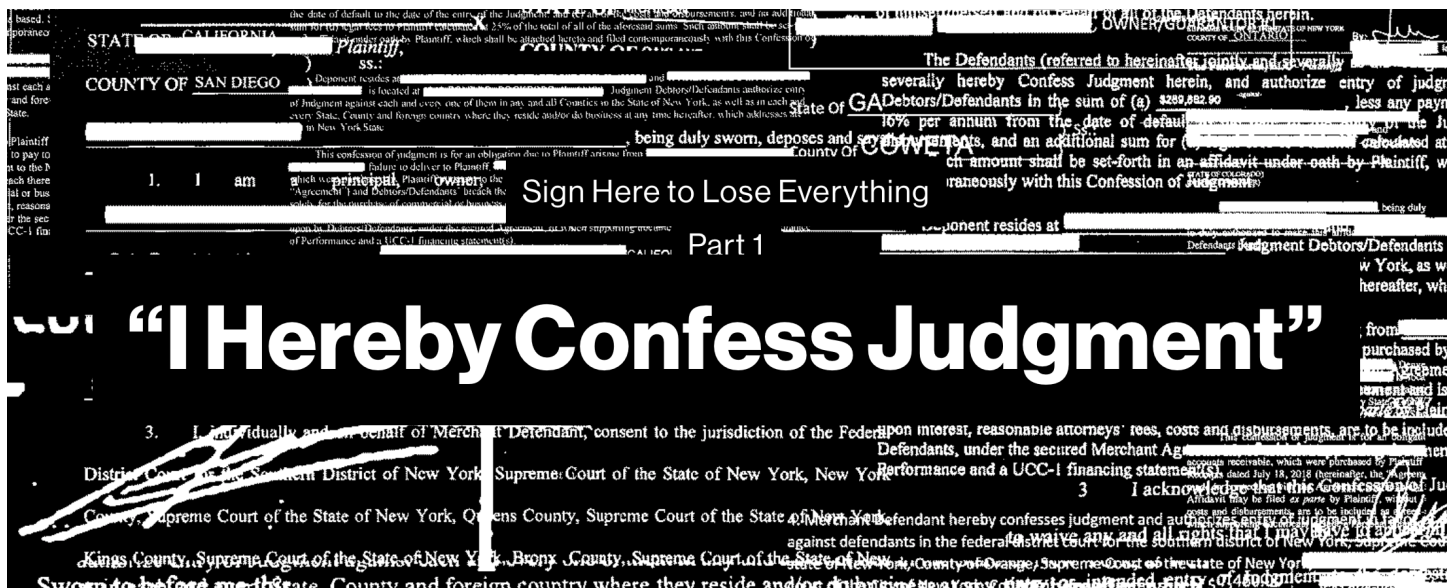


The Gerald Loeb Award  
For Explanatory Reporting  
“Sign Here to Lose Everything”  
By Zachary R. Mider, Zeke Faux, Demetrios Pogkas and David Ingold  
Bloomberg News

1. “Sign Here to Lose Everything: I Hereby Confess Judgment,” By Zachary R. Mider, Zeke Faux, David Ingold and Demetrios Pogkas, November 20, 2018, Part One, Bloomberg Businessweek. <https://www.bloomberg.com/graphics/2018-confessions-of-judgment/>
2. “Sign Here to Lose Everything: The \$1.7 Million Man,” By Zachary R. Mider and Zeke Faux, November 27, 2018, Part Two, Bloomberg News. <https://www.bloomberg.com/graphics/2018-confessions-of-judgment-millionaire-marshall/>
3. “Sign Here to Lose Everything: Rubber-Stamp Justice,” By Zachary R. Mider, Zeke Faux, David Ingold and Demetrios Pogkas, November 29, 2018, Part Three, Bloomberg News. <https://www.bloomberg.com/graphics/2018-confessions-of-judgment-new-york-court-clerks/>
4. “Sign Here to Lose Everything: Business-Loan Kingpin,” By Zachary R. Mider, Zeke Faux, David Ingold and Demetrios Pogkas, December 3, 2018, Part Four, Bloomberg News. <https://www.bloomberg.com/graphics/2018-confessions-of-judgment-marijuana-smuggler-turns-business-loan-kingpin/>
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## How an obscure legal document turned New York's court system into a debt-collection machine that's chewing up small businesses across America.

Story by Zachary R. Mider and Zeke Faux

Data analysis by David Ingold and Demetrios Pogkas

*Look out, the stranger on the phone warned. They're coming for you.*

The caller had Janelle Duncan's attention. Perpetually peppy at 53, with sparkly jewelry and a glittery manicure, Duncan was running a struggling Florida real estate agency with her husband, Doug. She began each day in prayer, a vanilla latte in her hand and her Maltese Shih Tzu, Coco, on her lap, asking God for business to pick up. She'd answered the phone that Friday morning in January hoping it would be a new client looking for a home in the Tampa suburbs.

The man identified himself as a debt counselor. He described a bizarre legal proceeding that he said was targeting Duncan without her knowledge. A lender called ABC had filed a court judgment against her in the state of New York and was planning to seize her possessions. "I'm not sure if they already froze your bank accounts, but they are RIGHT NOW moving to do just that," he'd written in an email earlier that day. He described the lender as "EXTREMELY AGGRESSIVE." Her only hope, the man said, was to pull all her money out of the bank immediately.

His story sounded fishy to the Duncans. They *had* borrowed \$36,762 from a company called ABC Merchant Solutions LLC, but as far as they knew they were paying the money back on schedule. Doug dialed his contact there and was assured all was well. They checked with a lawyer; he was skeptical, too. What kind of legal system would allow all that to happen 1,000 miles away without notice or a hearing? They shrugged off the warning as a scam.

But the caller was who he said he was, and everything he predicted came true. The following Monday, Doug logged in at the office to discover he no longer had access to his bank accounts. A few days on, \$52,886.93 disappeared from one of them. The loss set off a chain of events that culminated a month later in financial ruin. Not long after her agency went bankrupt, Janelle collapsed and was rushed to the hospital, vomiting bile.

As the Duncans soon learned, tens of thousands of contractors, florists, and other small-business owners nationwide were being chewed up by the same legal process. Behind it all was a group of financiers who lend money at interest rates higher than those once demanded by Mafia loan sharks. Rather than breaking legs, these lenders have co-opted New York's court system and turned it into a high-speed debt-collection machine. Government officials enable the whole scheme. A few are even getting rich doing it.

The lenders' weapon of choice is an arcane legal document called a confession of judgment. Before borrowers get a loan, they have to sign a statement giving up their right to defend themselves if the lender takes them to court. It's like an arbitration agreement, except the borrower always loses. Armed with a confession, a lender can, without proof, accuse borrowers of not paying and legally seize their assets before they know what's happened. Not surprisingly, some lenders have abused this power. In dozens of interviews and court pleadings, borrowers describe lenders who've forged documents, lied about how much they were owed, or fabricated defaults out of thin air.



Janelle and Doug Duncan

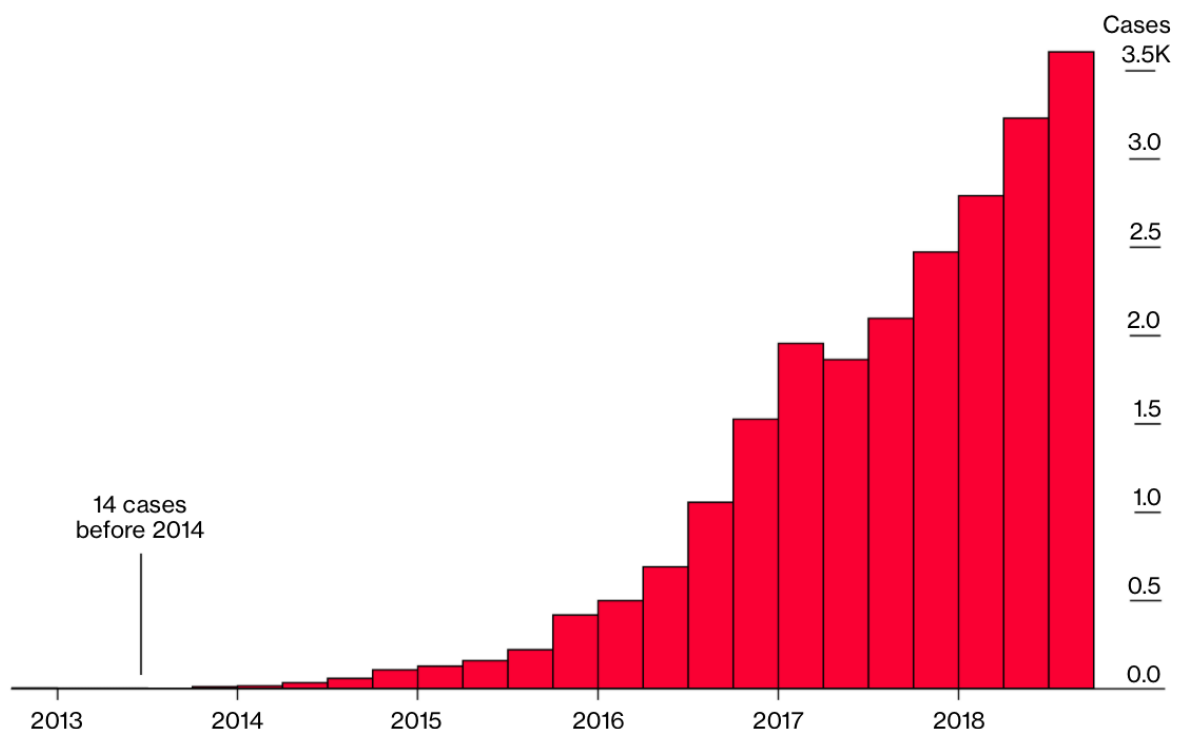
“Somebody just comes in and rips everything out,” Doug said one evening in August, pulling up a stool at a Starbucks and recounting the events that killed the Duncans’ business. After a long day spent selling houses for another company, the name tag pinned to his shirt had flipped upside down like a distress signal. “It’s cannibalized our whole life.”

Confessions of judgment have been part of English common law since the Middle Ages, intended as a way to enforce debts without the fuss and expense of trial. Concerns about their potential abuse are almost as old. In Charles Dickens’s 1837 novel *The Pickwick Papers*, a landlady who’s tricked into signing one ends up in debtors’ prison. Some U.S. states outlawed confessions in the middle of the 20th century, and federal regulators banned them for consumer loans in 1985. But New York still allows them for business loans.

For David Glass, they were the solution to a problem: People were stealing his money. Among the hustlers and con men who work the bottom rungs of Wall Street, Glass is a legend. Before he was 30, he’d inspired the stock-scam movie *Boiler Room*. Later busted by the FBI for insider trading, he avoided prison by recording incriminating tapes of his old colleagues. Even his enemies say Glass, who declined to comment for this story, is one of the sharpest operators they’ve ever dealt with.

## A Confessions Boom

Judgments by confession in favor of merchant cash-advance companies in New York state

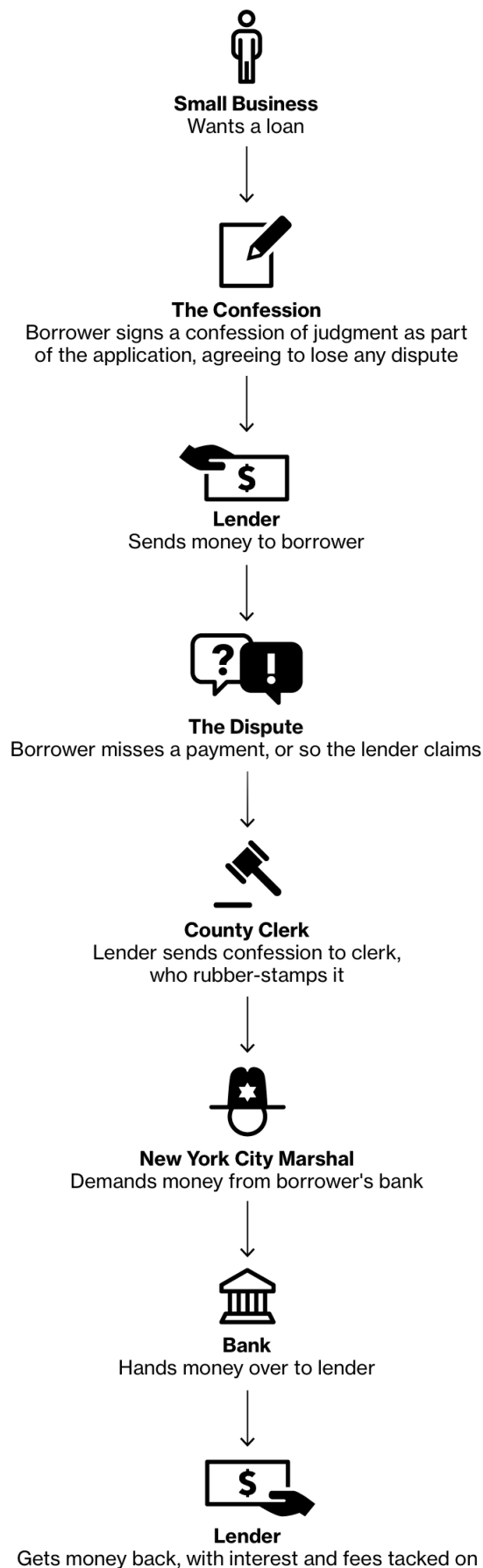


Note: Totals by quarter

Source: Bloomberg News analysis of New York State Unified Court System documents



## How Confessions of Judgment Work



In 2009, while still on probation, Glass and a friend named Isaac Stern started a company called Yellowstone Capital LLC. (ABC, the firm that wiped out the Duncans, is one of more than a dozen corporate names used by Yellowstone's sales force.) Operating out of a red-walled office above an Irish bar in New York's financial district, these salespeople phoned bodegas and pizzerias and pitched their owners on loans. The rates sometimes exceeded 400 percent a year, and daily payments were required, but borrowers were desperate.

In the aftermath of the financial crisis, banks were cutting back on lending just when small businesses most needed cash. Companies such as Yellowstone stepped in. They got around lending regulations by calling what they did "merchant cash advances," not loans—a distinction judges recognize though there's little practical difference. The same people who'd pushed stock swindles in the 1990s and subprime mortgages a decade later started talking small businesses into taking on costly debt. The profits were huge, and the industry grew. Last year it extended about \$15 billion in credit, according to an estimate by investment bank Bryant Park Capital.

Yellowstone would hire anyone who could sell. A nightclub bouncer sat next to ultra-Orthodox Jews fresh out of religious school. The best brokers earned tens of thousands of dollars a month, former employees say; others slept at the office, fought, sold loose cigarettes, and stole from each other. A video posted on YouTube shows Glass firing an employee. "Get the f--- out of my firm," he yells. "Why are you still sitting there, fat ass? Get out of my company!" To keep the troops focused, management would stack a pile of cash on a table and hold a drawing for closers.

Glass's problem was that some borrowers took Yellowstone's money with no intention of paying it back. Lawsuits against deadbeats proved pointless, dragging on for months or years. Then a lawyer who worked for Yellowstone and other cash-advance outfits came up with the idea of requiring borrowers to sign confessions of judgment before receiving their loans. That way, at the first sign of trouble, lenders could start seizing assets, catching borrowers unawares.

In May 2012, Yellowstone became what appears to be the first company in the industry to file a confession in court. Others copied the trick. The innovation didn't just make collections easier; it upended the industry's economics. Now, even if a borrower defaulted, a company stood a chance of making a full recovery. By tacking on extra fees, it might even make more money, and faster, than if the borrower had never missed a payment. In some cases, the collections process became a profit engine.

Confessions aren't enforceable in Florida, where the Duncans signed theirs. But New York's courts are especially friendly to confessions and will accept them from anywhere, so lenders require customers to sign documents allowing them to file there. That's turned the state into the industry's collections department. Cash-advance companies

have secured more than 25,000 judgments in New York since 2012, mostly in the past two years, according to data on more than 350 lenders compiled by *Bloomberg Businessweek*. Those judgments are worth an estimated \$1.5 billion. The biggest filer by far, with a quarter of the cases: Yellowstone Capital.

The Duncans' ordeal began in November 2017 with an unsolicited fax from a broker promising term loans of as much as \$1 million at a cheap rate. The couple had owned their agency, a Re/Max franchise, for three years and now had 50 employees, but they still weren't turning a profit. A planned entry into the mortgage business was proving more expensive than expected. Doing some quick math, Doug figured he could borrow \$800,000 to fund the expansion, pay off some debt, and come out with a lower monthly payment. The spam fax felt like a gift from God.

On the phone, the broker said that to qualify for a big loan, Doug would first have to accept a smaller amount and make a few payments as a tryout. He sent over the paperwork for a cash advance, not a term loan—and included confessions for both Doug and Janelle to sign. Without talking to a lawyer, they did. Why not? Doug thought. They intended to pay the money back on time.

The advance turned out to be for \$36,762, repaid in \$800 daily debits from their bank account starting the day after they got the money. This would continue for about three months, until they'd repaid \$59,960, amounting to an annualized interest rate of more than 350 percent. A small price to pay, Doug figured—soon he'd have all the money he needed in cheaper, longer-term debt. But when he followed up the next month to inquire about the status of the bigger loan, he got no response. The trouble started soon after.

A few hours after learning that their bank accounts had been frozen, the Duncans met with a local attorney, Jeffrey Dowd, in a law office squeezed between a nail salon and a transmission shop. Their bank, SunTrust, refused to tell them who was behind the freeze. It wasn't clear why Yellowstone would target them. Their contact there was still pleading ignorance; the lender had collected its \$800 payment as recently as the previous business day. Janelle was on the verge of tears.

A broad-shouldered man with a white goatee, Dowd handles everything from wills to lawsuits for small-business owners in the Tampa suburbs. After assuring the Duncans he'd get to the bottom of it, he logged on to his computer. He soon found a legal website showing that Yellowstone had won a judgment against the Duncans a few hours after Janelle received the warning phone call. The lender had gone to a court in the village of Goshen, 60 miles north of New York City.

"I hereby confess judgment," read the documents Doug and Janelle had signed. Attached was a statement signed by the same person at Yellowstone who'd assured Doug everything was fine. It said the Duncans had stopped making payments.

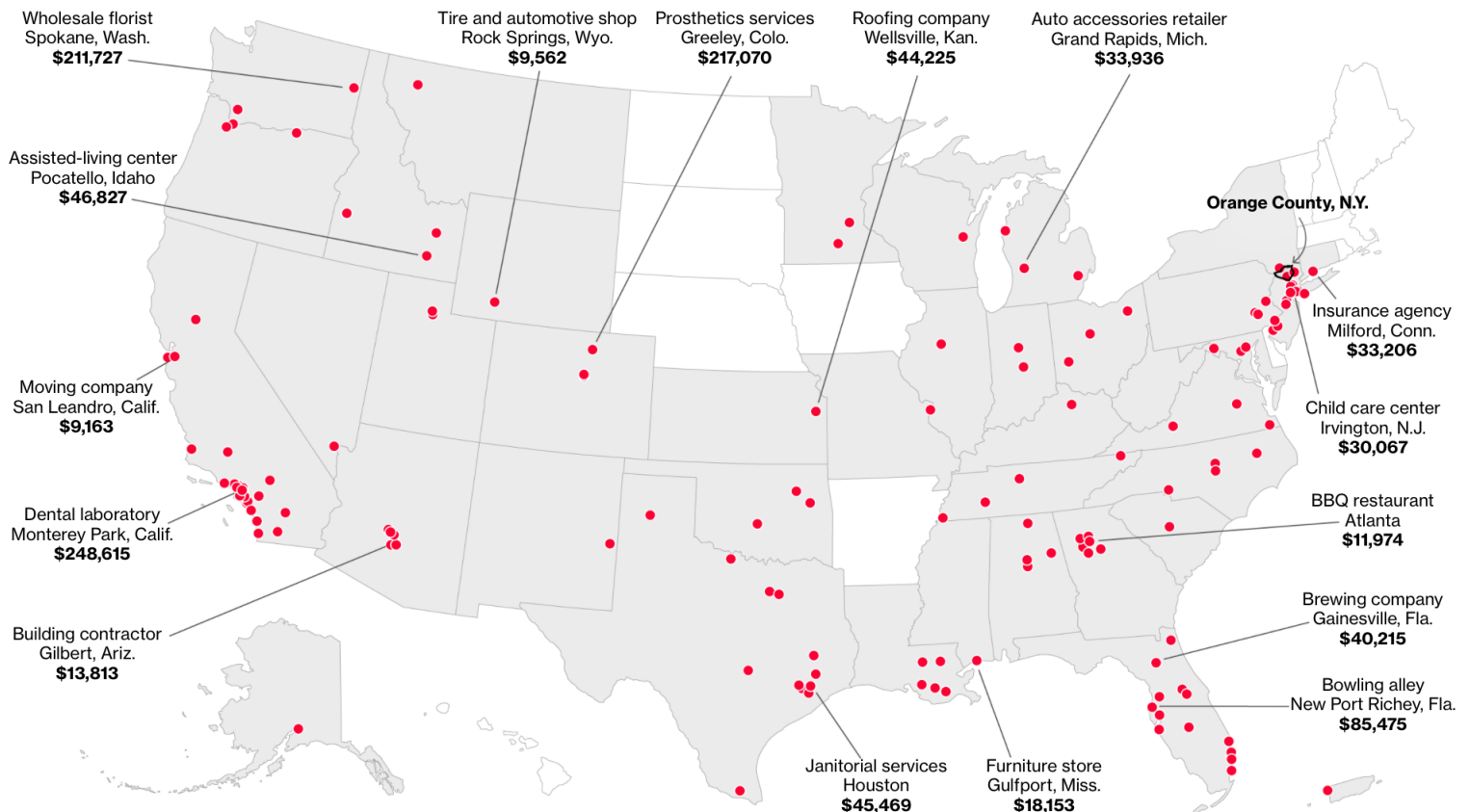
That wasn't true. The Duncans' bank records show that Yellowstone had continued to get its daily \$800 even after going to court. The company's sworn statement also inflated the size of the couple's debt. But by the time Dowd found the case, it was already over. A clerk had approved the judgment less than a day after Yellowstone's lawyer asked for it. No proof was demanded, no judge was involved, and the Duncans didn't have a chance to present their side in court.

Beau Phillips, a Yellowstone spokesman, said in an email to *Businessweek* that the company was within its rights, because the Duncans had blocked one payment and never made up for it. The Duncans respond that if a block had taken place, it must have been a computer error. Why stop paying and then resume the next day?

The court papers revealed the name of Yellowstone's lawyer, and on a whim, Dowd searched for her other cases and found more than 1,500 results. The Duncans' predicament was no aberration. "It was like a rabbit hole," Dowd says. He dove in, clicking on case after case after case.

## The Long Reach of a Rubber Stamp

In one month, a single clerk's office in Orange County, New York, issued 176 judgments against small businesses in 38 states and Puerto Rico



Note: Judgments issued based on merchant cash-advance filings in Orange County in July 2018  
Source: Bloomberg News analysis of New York State Unified Court System documents

Goshen, N.Y., is a bucolic stop on the harness-racing circuit, just west of the Hudson River. Not far from the track, in the Orange County Clerk's office, women with ID lanyards around their necks sit behind Plexiglas windows, processing pistol permits and recording deeds. One clerk prints out proposed judgments sent electronically by cash-advance companies and makes them official with three rubber stamps.

Orange is one of a handful of counties in upstate New York that together handle an outsize share of the nation's cash-advance collections. Industry lawyers pick offices known to sign judgments quickly; there's no need for the borrower or lender to have a connection to the area. In even smaller Ontario County, cash-advance filings make up about three-quarters of the civil caseload. No matter how abusive the confessions might be, clerks have no choice but to continue processing them, says Kelly Eskew, a deputy clerk in Orange County.

To obtain a judgment, a lawyer for a cash-advance company must send in the confession along with a sworn affidavit explaining the default and how much is still owed. The clerk accepts the statement as fact and enters a judgment without additional review. Once signed, this judgment is almost impossible to overturn. Borrowers rarely try. Few lawyers will take on a client whose money is already gone, and getting a ruling can take months—too long to save a desperate business. It's a trap with no escape.

Clicking around a database of New York state court records, Dowd did find some cases in which cash-advance borrowers had sought to overturn judgments. They'd almost always failed. New York judges took the view that debtors waived their rights when they signed the papers. Dowd concluded it would probably cost the Duncans \$5,000 to retain a lawyer to travel to Orange County. He advised them not to bother.

It's possible that if the Duncans had tried to overturn the judgment, they would have discovered that the confessions they'd signed were later altered. The signed originals contain an apparent drafting error, failing to identify the Duncans' company as subject to the judgment, a flaw that might have prevented Yellowstone from seizing their money. In the version filed in court, someone had replaced the first two pages of each confession with the mistake corrected. Asked by Businessweek about the discrepancy, Phillips didn't provide an explanation.

Borrowers have accused Yellowstone of forgery before. Just in the past year, a Georgia contractor presented evidence in court that a confession used against him was a complete fabrication, and a Maryland trucker complained to Yellowstone that a key term in his confession had been changed after the fact, as had happened with the Duncans. The company backed off from those borrowers but faced no further consequences. Phillips declined to comment on the accusations.



## Altered Documents

The confession of judgment signed by the Duncans (left) and the one filed by Yellowstone in court

1) I am a principal, owner, and an officer of STAR PERFORMANCE REALTY INC. d/b/a REMAX SOUTH SHORE REALTY, a Corporation located at 10445 GIBSENTON DR, RIVERVIEW, FL 33578 in the County of PASCO, and as such, I have the authority to act on behalf of STAR PERFORMANCE REALTY INC. d/b/a REMAX SOUTH SHORE REALTY, and have been authorized to execute this affidavit of confession of judgment. (DOUGLAS W DUNCAN, and JANELLE M DUNCAN are collectively referred to as "Merchant Defendant".)

1) I am a principal, owner, and an officer of STAR PERFORMANCE REALTY INC. d/b/a REMAX SOUTH SHORE REALTY, a Corporation located at 10445 GIBSENTON DR, RIVERVIEW, FL 33578 in the County of PASCO, and as such, I have the authority to act on behalf of STAR PERFORMANCE REALTY INC. d/b/a REMAX SOUTH SHORE REALTY, and have been authorized to execute this affidavit of confession of judgment. (STAR PERFORMANCE REALTY INC. d/b/a REMAX SOUTH SHORE REALTY is referred to as "Merchant Defendant".)

While Dowd didn't challenge the ruling against the Duncans in court, he did think he could get SunTrust to help them. He told the bank that one of the couple's accounts held funds that didn't belong to them because it was used to collect rent on behalf of landlords. Dowd says a banker at the local branch wanted to help but was overruled by higher-ups. The account remained frozen. A spokesman for SunTrust declined to comment.

When Dowd finally reached Yellowstone's lawyer, she referred him to a marshal who she said was handling the case. Dowd was confused. Why would a U.S. marshal be involved? His clients weren't fugitives. He called the phone number, and somebody with a Russian accent answered.

The person on the phone wasn't a federal official. Dowd had reached the Brooklyn office of Vadim Barbarovich, who holds the title of New York City marshal. He'd stumbled onto an arcane feature of the city's government that's become another powerful tool for cash-advance companies.

New York's 35 marshals are government officers, appointed by the mayor, who collect private debts. They evict tenants and tow cars, city badges dangling from their necks. When they recover money, they get a fee of 5 percent. The office dates to Dutch colonial days, formed by a decree of Peter Stuyvesant's council. Fees for the biggest jobs were initially set at a dozen stivers, less than one-tenth the price of a beaver pelt.

Barbarovich's office is in the immigrant enclave of Sheepshead Bay. Before he was appointed in 2013, he'd tracked inventory at a Brooklyn hospital and volunteered as a Russian translator. He's now the go-to marshal for the cash-advance business and has

gotten rich in the process. Last year, city records show, he cleared \$1.7 million after expenses.

As soon as Yellowstone had obtained its judgment against the Duncans, it had sent a copy to Barbarovich, who issued legal orders demanding money from Atlanta-based SunTrust and another bank in Alabama where the couple kept their personal funds. By law, New York marshals' authority is limited to the city's five boroughs, but a loophole vastly extends their reach: They're allowed to demand out-of-state funds as long as the bank has an office in the city, as SunTrust does. A few big banks refuse to comply with the orders, but most just hand over their customers' money.

SunTrust proved accommodating. Three days after freezing the Duncans' accounts, it took \$52,886.93 and mailed a check to Barbarovich, enough to satisfy the judgment plus the 5 percent marshal's fee. Almost all of it was rent money the Duncans were holding for landlords, not their own funds. Barbarovich didn't respond to questions about the couple's case but said in an email that he follows the rules when issuing a demand for money. Phillips, the Yellowstone spokesman, said no one told the company that the money belonged to third parties until seven weeks after it was seized. Even then, Yellowstone refused to return it.

The Duncans scrambled to make up the shortfall. Doug got another, larger cash advance from a different company to keep afloat. The daily payments on that loan were too much for them to handle, though, and they were soon short of cash again. Sensing trouble, employees fled.

One evening, Janelle thought she was having a heart attack. Her pulse raced, her limbs went numb, and she grew nauseous. An ambulance rushed her to the hospital. Her heart was fine. Her insurance claim was denied.

Unlike the Duncans, most of the dozens of borrowers interviewed by *Businessweek* really did fall behind on their debt payments. Their experiences were no less wrenching. They spoke of divorce, of lost friendships, of unpaid medical bills.

"You can't defend yourself," says Richard Schilg, the owner of a human resources company in Ohio who borrowed hundreds of thousands of dollars with at least six advances. "As long as you still have a business, as long you have a personal checking account, they're going to hound you. Your life is ruined by their contract." Schilg says he always tried to honor his debts. But his access to money has been so restricted by cash-advance judgments that he's had to sell furniture to buy food.

He's one of many borrowers who've received nasty threats from debt collectors. "I will make this my personal business to f--- you," a Yellowstone executive named Steve Davis told Schilg on a voicemail heard by *Businessweek*. Davis texted another: "I will watch

you crash and burn.” Asked about the messages, Davis says, “People defraud us. When that happens we have to do what’s best for us.”

Jerry Bush, who ran a plumbing business with his father in Roanoke, Va., signed confessions for at least six cash advances from companies including Yellowstone, taking one loan after another as his payments mounted to \$18,000 a day. In January, Davis called him while he was accompanying his wife to a chemotherapy appointment and threatened him with the confession in a dispute over payment terms. Davis denies menacing Bush, but according to Bush’s account of their conversation, Davis said he would pursue Bush until his death and take all of his money, leaving nothing to pay for his wife’s treatment. Bush also says Davis then offered to send flowers to Bush’s wife.

In August, Bush closed his business, laid off his 20 employees, and stopped making payments on his loans. Yellowstone never filed its signed confession in court, but other lenders went after him over theirs.

One sunny day that month, he walked to a wooded area near his home, swallowed a bottle of an oxycodone painkiller, and began streaming video to Facebook. To anyone who might have been watching, he explained that he’d taken out cash advances in a failed attempt to save his business. Now the lenders had seized his accounts, Bush said, his voice wavering. One had even grabbed his father’s retirement money.

“I signed ’em, I take the blame for it,” he said. “This will be my last video. I am taking this on me.” He asked his friends to take care of his family, then sobbed as he told his wife and teenage son he loved them.

Someone who saw the video alerted the police. They found Bush unconscious in the woods a few hours later—he credits them with saving his life. But the pressure from his confessions of judgment hasn’t relented. “I wake up every morning afraid what else they will take,” he says. “And every morning I throw up blood.”



**Jerry Bush**



Bush's contracts with Yellowstone show that the company advanced him a total of about \$250,000 and that he paid them back more than \$600,000. Davis, who parted ways with Yellowstone in August, says he didn't mistreat Bush or other borrowers and always followed the company's protocols. "You know why people put the blame on me is because I'm successful," he says. "It's just haters."

As for the Duncans, each morning at their house still begins with a prayer and a Bible verse. Their retirement savings evaporated with their agency, but they've been able to keep their house. They continue to believe God has a plan for every one of his children, but they've learned to trust some of those children less. "If we don't have peace from God, and we live in outrage, it destroys us," Janelle says. "So I'm choosing to have hope to start again, and we're relying on the Lord to replace what the enemy has stolen and turn it around for good."



**A stack of cash about to be raffled off to a lucky Yellowstone employee.**

*SOURCE: FACEBOOK*

By seizing their bank deposits, Yellowstone had managed to collect its money ahead of schedule and tack on \$9,990 in extra legal fees, payable to a law firm in which it owns a stake. In about three months, the company and its affiliates almost doubled their money. At that rate of return, one dollar could be turned into 10 in less than a year.

Everyone else involved in the collection process got a slice, too. SunTrust got a \$100 processing fee. Barbarovich's office got approximately \$2,700, with about \$120 of that passed along to the city. The Orange County Clerk's office got \$41 for its rubber stamps. The New York state court system got \$184.

To date, no state or federal regulator has tried to police the merchant-cash-advance industry. Its lawyers designed it to avoid scrutiny, sidestepping usury laws and state licensing requirements by keeping the word "loan" out of paperwork and describing the deals as cash advances against future revenue. And because the customers are technically businesses, not individuals, consumer protection laws don't apply, either.

With regulators sidelined and lawmakers oblivious, Yellowstone and its peers keep growing. After Glass stepped back a couple of years ago from day-to-day operations—his

criminal record was making it harder to find investors—Wall Street investment bankers arranged a \$120 million line of credit to finance more advances. In 2016 the company moved from its grimy downtown Manhattan offices to a shiny building in Jersey City, pocketing \$3 million in state tax incentives. On Instagram, a top salesmanshow off flights on private jets, a diamond-encrusted watch, and a Lamborghini. Yellowstone advanced \$553 million last year, its highest total ever.

In April, on the same day Janelle Duncan was selling the last of her office furniture, Yellowstone executives marked the company's ninth anniversary with a luncheon in Jersey City. In a celebratory email marking the occasion, Stern, the co-founder, wrote, "I am continually blown away at the success and achievements we continue to have."

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**This is the first in a series of articles about the merchant cash-advance industry.**

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Sources: Bloomberg News analysis of New York State Unified Court System documents; U.S. Census Bureau

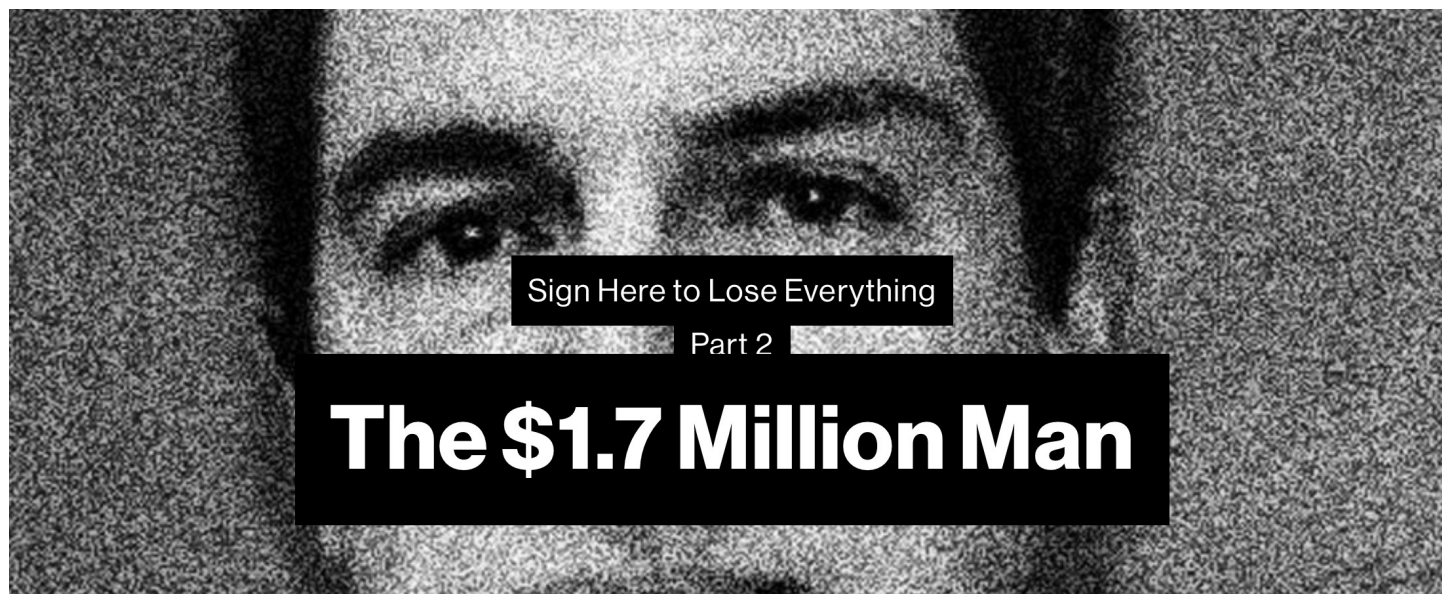
Design and development: Demetrios Pogkas and Christopher Cannon. With assistance from Dean Halford.

Photographs by Tristan Wheelock for Bloomberg Businessweek.

Edited by Robert Friedman and Jeremy Keehn.

Notes: To compile data on the use of confessions of judgment, Bloomberg assembled a list of more than 500 cash-advance company names from sources including industry publications and lawyer client lists. Each name was then searched on the New York State Unified Court System's electronic filing database to identify more than 30,000 civil court cases associated with these companies since 2012. Details of each case were analyzed to identify those in which the plaintiff filed a confession of judgment and the court entered a judgment in the plaintiff's favor. The dollar value of about one-third of the judgments was available in the state court database. Bloomberg estimated the value of the remainder based on those values and a random sample of more than 1,200 cases where the amount in court filings hadn't been entered in the electronic database.





## Meet New York City's highest-earning official. He's a debt collector for predatory lenders.

By Story by Zachary R. Mider and Zeke Faux

In the 1960s, New York's loan sharks would send thugs with nicknames like "Jimmy Dimps" to beat up borrowers who fell behind on their payments.

Now predatory lenders have a quieter way of collecting debts: an obscure city official named Vadim Barbarovich. Armed with a badge and a stack of court papers, he empties peoples' bank accounts nationwide and keeps a cut for himself. He earned \$1.7 million last year, giving him the most lucrative job in New York City government.

Barbarovich is a city marshal. In an archaic system dating to colonial New Amsterdam, he's one of 35 mayoral appointees who compete for fees recovering debts. Marshals mostly evict tenants and tow cars, but Barbarovich and a few others have become cogs in a debt-collection machine that has crushed thousands of small businesses. They use their legal authority on behalf of lenders who charge more than some mafia loan sharks once did.

In theory, Barbarovich's reach ends at the city limits. In practice, it spans the nation. From a third-floor office near Coney Island in Brooklyn, he has grabbed cash from a physician in California, a roofer in Florida and a cattle auctioneer in Illinois. Borrowers say he and other marshals routinely push the limits of their authority.

“How could they pull all that money? I’ve never even been to New York,” says Jose Soliz, a masonry contractor near Amarillo, Texas, who had more than \$56,000 taken from his bank account by Barbarovich last year. “It’s a con.”

Barbarovich, who declined to be interviewed, said in an email that he follows the rules for issuing legal demands. Michael Woloz, a spokesman for the New York City Marshals Association, said his members aren’t responsible for their clients’ business practices. “Marshals simply enforce court judgments,” he said.



**Marshal Vadim Barbarovich.**  
*SOURCE: NEW YORK CITY DEPARTMENT OF INVESTIGATION*

The companies making Barbarovich rich advance money at rates that can top 400 percent annualized. To get around state laws designed to stamp out loan sharking, they say they aren’t making loans but buying the money that businesses will likely make in the future at a discounted price. Courts have generally recognized this distinction, and the industry, known as merchant cash advance, has grown to an estimated \$15 billion a year.

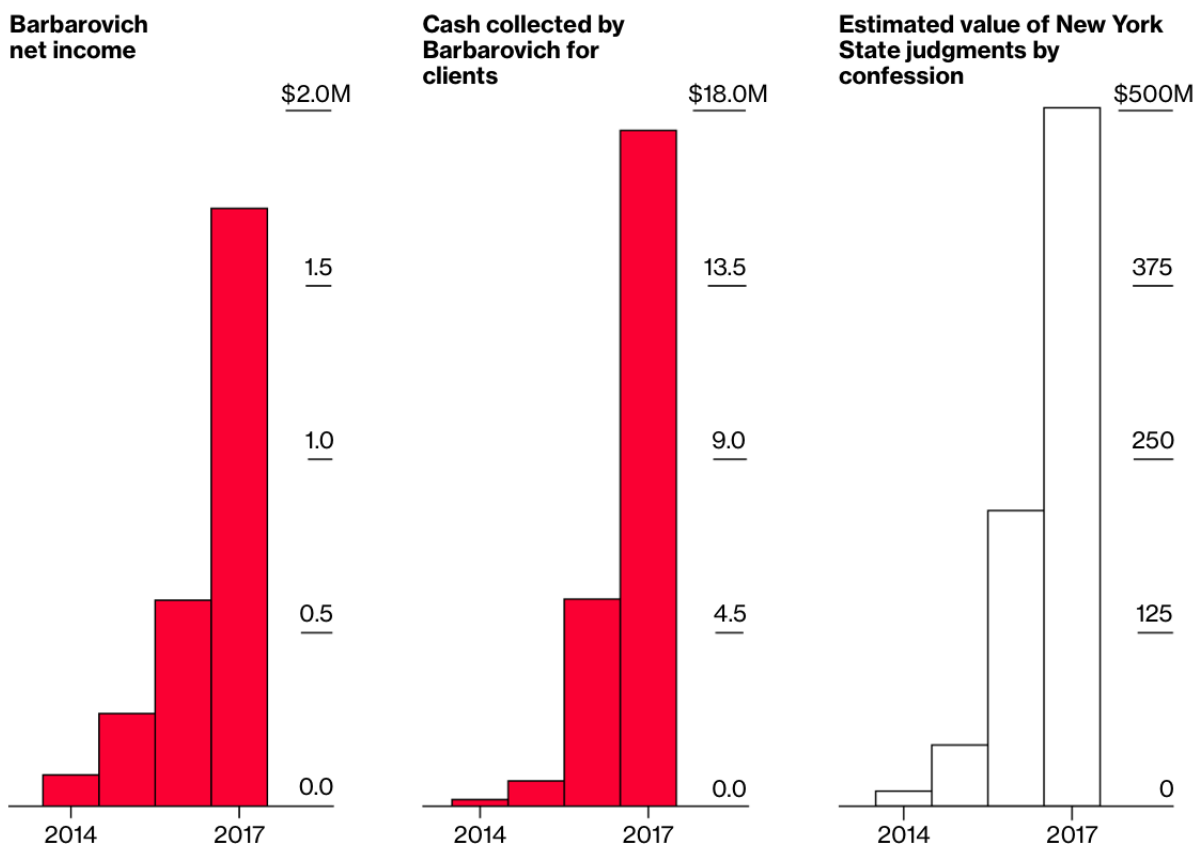
When lenders claim borrowers have fallen behind, they often call in the marshals. Their job is to force banks to hand over whatever cash is left. They do it not with their fists, but with a court order rubber-stamped by a clerk and obtained without going before a judge. Most banks comply quickly, without checking if the marshal has a right to grab the funds. The borrower often doesn’t know what’s happening until the money is gone.

Before Barbarovich, 47, became a marshal, he worked in property control at Brooklyn’s SUNY Downstate Medical Center, where he never made more than \$70,000 a year and sometimes volunteered as a Russian translator. When he started as a marshal in 2013, he pursued a traditional mix of work, targeting deadbeat tenants and parking scofflaws, earning \$90,191 in his first full year, city records show. His income skyrocketed when cash-advance companies discovered his power. Lawyers and debt advisers say Barbarovich is the industry’s go-to legal enforcer. By last year, his earnings had increased almost 20-fold, even after he put his daughter and father on his payroll.

Barbarovich’s financial disclosures don’t break down how much he makes from each activity. But they show his work enforcing state Supreme Court property judgments grew dramatically during 2016 and 2017, as did the amount of cash he recovered from debtors. His parking and eviction activity slowed, the records show.

## A City Marshal's Fortunes Rise

The dramatic growth in Barbarovich's income coincided with increasing use of New York State court judgments by the cash-advance industry



Notes: Barbarovich net income as a marshal includes earnings from all sources. Cash collected by Barbarovich reflects funds kept in trust account for clients after deduction of fees and poundage. Value of judgments by confession applies only to judgments obtained by merchant cash-advance companies. It is a Bloomberg News estimate from analysis of a representative sample of judgments.

Sources: New York City Department of Investigation; New York State Unified Court System documents

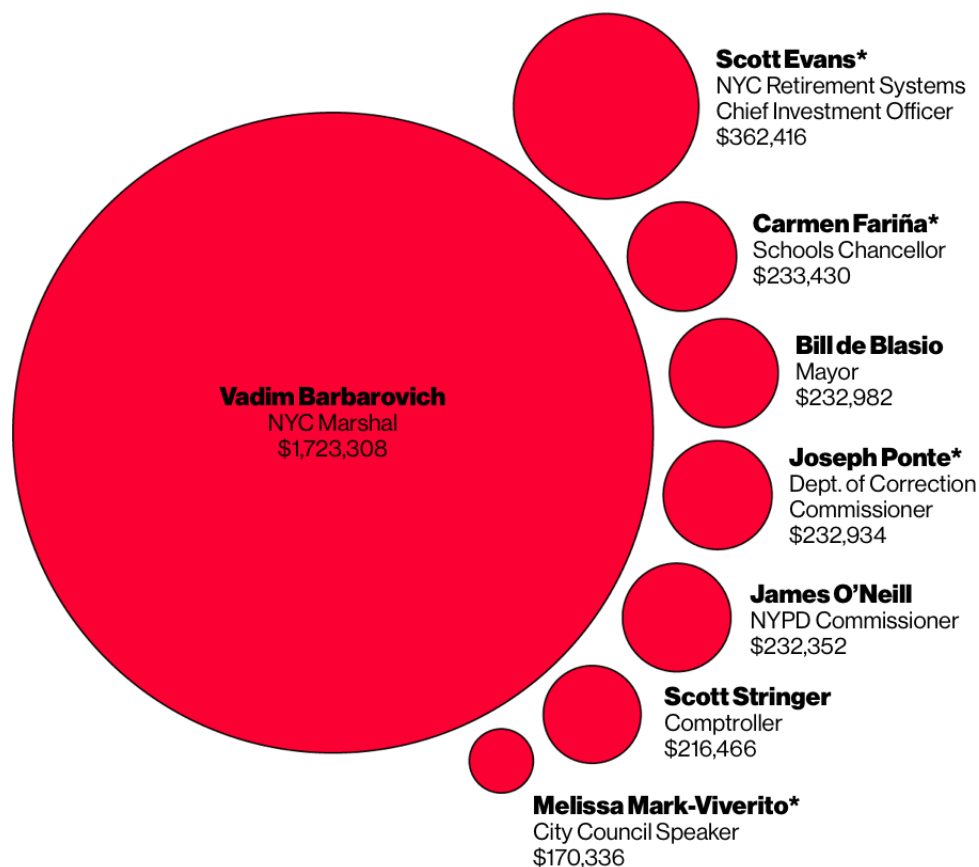
The unusual compensation scheme for city marshals—they draw no salary, earn fees from customers and compete with each other—encourages them to be aggressive, critics say. City officials have done little to rein them in, they add.

“He goes about it in any which way he can,” says Avery Steinberg, a lawyer in White Plains, New York, with several clients whose accounts were seized by Barbarovich. “He has a reputation of being a bully.”

Soliz, 55, whose family-owned company builds concrete-block walls for schools and big-box stores in the Texas Panhandle, has a typical story. He needed money to expand and couldn't get bank loans, so he started borrowing from cash-advance companies about two years ago and quickly got trapped in a cycle of debt.

## Making More Money Than the Mayor

Barbarovich earned more in 2017 than any other New York City official. Here are a few who made less



\* Indicates city officials who no longer hold office

Notes: Total gross paid in fiscal year ended June 30, 2017, for city officials by their respective agencies, and in calendar year 2017 for Barbarovich; NYPD Commissioner didn't serve the full fiscal year

Source: City of New York

By August 2017, Soliz was in hock to several lenders when he applied for a cash advance from Queen Funding LLC in Miami Beach, Florida. Court documents show he got about \$23,000 after brokerage and origination fees and agreed to pay back \$44,970 within nine weeks—akin to 800 percent annualized interest. A lawyer for Queen declined to comment.

Soliz says the fees were more than he expected, so he stopped payment. A few days later, on payday for his roughly 50 workers, Soliz checked his Wells Fargo & Co. bank account on his phone and noticed it was frozen. The paychecks bounced. He scrambled over the next few days to gather cash from completed jobs to make up the wages.

Many cash-advance companies, like the ones Soliz used, require borrowers to sign a document called a confession of judgment as part of their application. By signing,

borrowers agree in advance that if there's a legal dispute, they will automatically lose, short-circuiting any judicial review. Signers often don't realize the power they're handing over. A lender can accuse a borrower of not paying, without presenting proof, and have a court judgment signed by a clerk the same day.

Queen obtained such a judgment against Soliz in a court in Buffalo, New York, and sent in Barbarovich. Even though Soliz opened his account at a Wells Fargo branch in Texas and the judgment was valid only in New York State, the bank turned over \$56,764 to the marshal within six days, including attorneys' fees and the marshal's cut of \$2,784.

Marshals can seek out-of-state funds as long as they serve demands by hand at a bank location in New York City, according to the city's Department of Investigation, which oversees their operations. It is "currently proper, according to the rules," Diane Struzzi, the agency's spokeswoman, said in an email.

But it's not clear whether banks have to comply with these orders. Struzzi would say only that it's up to those institutions to decide if they'll hand over out-of-state money. Some reject such demands, but most have a policy of following any legal order they receive, avoiding the hassle of reviewing each one.

Wells Fargo declined to comment on Soliz's case or say how Barbarovich served the demand. The bank, which has numerous offices in New York, said in a statement that "we carefully review each legal order to ensure it's valid and properly handled." Barbarovich also declined to comment on Soliz's case. He said in his email that he serves all such papers by hand.

That's not true, according to Soliz's lawyer, Shane Heskin of Philadelphia, who points to two other cases he handled where Barbarovich went after companies with no connection to New York. One was First Commons Bank in Massachusetts, in 2016, and another was EBCO General Contractor Ltd., a Texas construction firm that employed an electrician hit by a judgment last year.

Barbarovich said in his email that he served registered agents of both companies in Manhattan. He declined to identify them or provide documentation of the visits. New York's Department of State has no record of any registered agents for either company.

Karen Schwartzman, a spokeswoman for the bank that later bought First Commons, said she wasn't aware of any legal address in New York. EBCO President John Egger said the company has no registered agent in New York and that Barbarovich just sent the order by mail. In January, after Heskin challenged the EBCO action in New York, a judge ordered Barbarovich to stop issuing out-of-state levies.

The Department of Investigation "has and continues to review" Barbarovich's work,





Barbarovich's office in the Sheepshead Bay section of Brooklyn.

PHOTOGRAPHER: MISHA FRIEDMAN FOR BLOOMBERG

Struzzi said, declining to give specifics. She said the agency is conducting multiple investigations into the enforcement of judgments, focusing on whether marshals are serving orders by hand in New York.

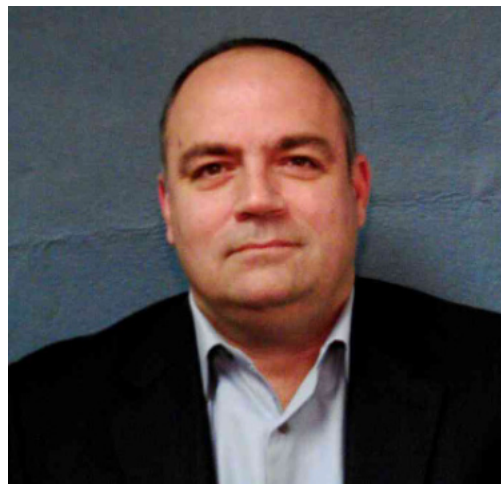
When the Dutch imported the marshal's post to their fledgling colony in the 17th century, jobs requiring a boat trip across the Hudson River earned the biggest fees. Under current law, marshals keep 5 percent of cash collections, a perk known as poundage.

The city has a sheriff's office that does similar work, but employees there draw salaries. Several mayors have called for an end to the marshal system. Ed Koch described it as "anachronistic" in 1978, but he failed to get the state legislature to act.

The next two mayors didn't appoint any new marshals, and their numbers dwindled. Michael Bloomberg, the majority owner of Bloomberg News parent Bloomberg LP, replenished the ranks when he held the office, adding Barbarovich and 19 others. A committee he appointed that screened applicants emphasized diversity and language skills. The cash-advance industry wouldn't become a big moneymaker for marshals until a few years later.

Barbarovich isn't the only marshal working for cash-advance companies. Stephen Biegel, a retired police lieutenant appointed in 2007, earned \$786,418 last year and has also been known to push the limits of his jurisdiction.

In June, Biegel faxed an order demanding money to a bank in Elmira, New York, 173 miles northwest of the city. He claimed that a state court had entered a judgment against a plumber named Orion Megivern. That wasn't the case. The lender had tried to enter a confession of judgment at a clerk's office in Staten Island, but the clerk there hadn't yet acted on the application. The Elmira bank had no locations in New York City, where Biegel's authority ended.



**Marshal Stephen Biegel.**  
*SOURCE: NEW YORK CITY DEPARTMENT OF INVESTIGATION*

Still, the bank froze Megivern's account, causing "cataclysmic" consequences for his business, he later said in a sworn affidavit. Desperate to unfreeze the account, Megivern released \$13,453 to the marshal—not a bad haul considering Megivern had borrowed \$6,837 less than a month earlier and had, according to his affidavit, already repaid \$2,990.

Biegel, who declined to comment, was the subject of one of the few known penalties brought against a city marshal for improper service. In June, the Department of Investigation found that he'd improperly demanded \$150,522 from a Florida-based bank and ordered him to return any money collected, Struzzi said. She declined to give details.

Steinberg, the lawyer who represents debtors, compared marshals' actions on behalf of lenders to a delivery driver who routinely double-parks, knowing that any potential penalties are worth it. "Once in a while they get parking tickets," he says. "It's a cost of doing business."

**This is the third in a series of articles about the merchant cash-advance industry.**

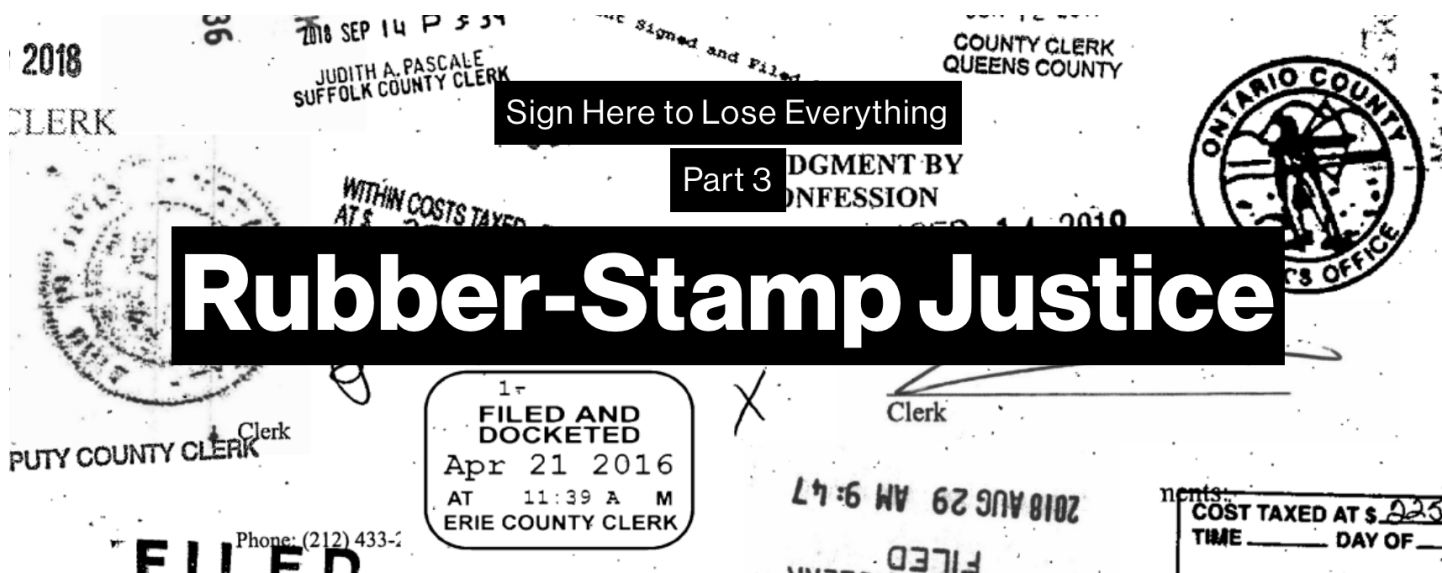
Data analysis: David Ingold and Demetrios Pogkas.

Design and development: Demetrios Pogkas.

Edited by Robert Friedman and John Voskuhl

\*Notes: To compile data on the use of confessions of judgment, Bloomberg assembled a list of more than 500 cash-advance company names from sources including industry publications and lawyer client lists. Each name was then searched on the New York State

Unified Court System's electronic filing database to identify more than 30,000 civil court cases associated with these companies since 2012. Details of each case were analyzed to identify those in which the plaintiff filed a confession of judgment and the court entered a judgment in the plaintiff's favor. The dollar value of about one-third of the judgments was available in the state court database. Bloomberg estimated the value of the remainder based on those values and a random sample of more than 1,200 cases where the amount in court filings hadn't been entered in the electronic database.



## Predatory lenders have co-opted New York's court system to put the screws to borrowers nationwide.

Story by Zachary R. Mider and Zeke Faux

Data analysis by David Ingold and Demetrios Pogkas

Before the predatory lenders descended, days would come and go with no new court cases filed at the county office building in sleepy Canandaigua, New York, population 10,289.

Ontario County Clerk Matthew Hoose and his staff had plenty of other things to do, processing gun permits and drivers' licenses for people who live among the vineyards and dairy farms on the northern end of the Finger Lakes region. A former corrections officer and tae kwon do instructor, he holds the same post his grandfather once did.

Then around eight months ago, Hoose noticed he was getting busier. A half-dozen new court cases a day were coming in from out-of-town lawyers. They were representing companies with names like High Speed Capital and Cash Crunch.

The new cases had no connection to Ontario County. In each, a small-business operator—a plumber in Arkansas, a shopkeeper in California—had borrowed money at a steep interest rate, and now the lender was asking for the court's help, saying the company wasn't paying.

Something else was strange: Each one included a document called a confession of judgment, saying the borrower had agreed in advance to lose any court dispute about the





Canandaigua, New York, in Ontario County. *PHOTOGRAPHER: PHILIP SCALIA/ALAMY*

transaction. The confessions were signed weeks or months before any case existed and before any payments would have been made or missed.

The confessions meant the paperwork went straight to Hoose for his signature, bypassing a judge. No proof of missed payments was required, and the borrower wasn't even notified. Hoose or a deputy simply signed a piece of paper to make the judgment final and collected a \$225 fee. He says he eventually learned that lenders use Ontario because he often approves cases the same day he gets them.

"They say we're very quick," Hoose says. "Word just gets around."

Hoose and several other clerks in upstate New York counties have become crucial enablers of a nationwide predatory lending operation. Their sign-offs—with electronic signatures or old-fashioned rubber stamps—give loan companies the legal authority to raid borrowers' bank accounts and seize other assets, bypassing the fuss and expense of a trial. Borrowers say lenders often abuse this power, inflating balances or grabbing money when it's not justified. But as long as the paperwork is in order, the clerk is required by law to approve the case, before a borrower has a chance to object.



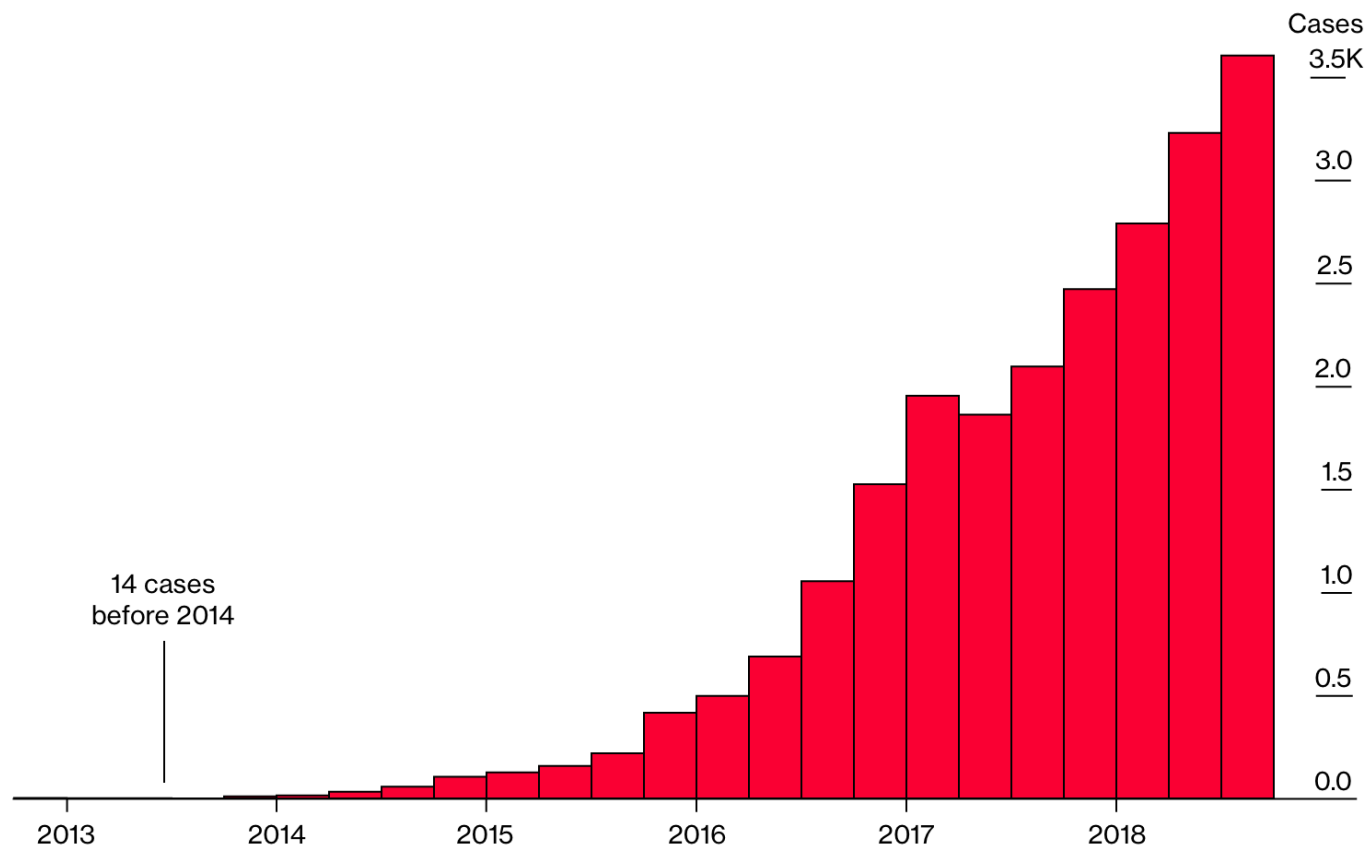
Number of judgments by confession for cash-advance companies approved in New York counties



The lenders are part of the merchant cash-advance industry, which got big after the U.S. financial crisis a decade ago. It's driven by telephone salesmen who offer small businesses fast money at costs that can exceed an annualized interest rate of 400 percent. They get around usury laws by saying they aren't making loans but advancing cash in exchange for a share of future revenue. Over the past few years, lenders have begun requiring borrowers to sign such confessions as part of the application.

## A Confessions Boom

Judgments by confession in favor of merchant cash-advance companies in New York state



**Note:** Totals by quarter

*Source: Bloomberg News analysis of New York State Unified Court System documents*

To shed light on this emerging practice, Bloomberg News obtained and analyzed New York State court cases filed by more than 350 cash-advance companies since the industry began using confessions around 2012. It found more than 25,000 such cases entered in courts around the state, most of them in the past two years, involving lenders and borrowers from all over the country. The judgments are worth an estimated \$1.5 billion.

The data show a sharp increase in filings each year, as more lenders adopted the use of confessions and the industry expanded. By September, clerks were entering more than 1,200 judgments a month. Ontario is the most popular county this year, overtaking Erie, the home of Buffalo, which was tops in 2017. In October, Ontario received 455 cash-advance filings, more than four-fifths of the county's total civil caseload.

The lenders choose New York courts because state law is especially friendly to confessions of judgment. Responding to a surge in their use in consumer lending after World War II, many states restricted them, citing concerns about abuse. A few deemed it a

criminal offense to obtain one. The Federal Trade Commission banned them nationwide for consumer loans in 1985.

Skepticism about these instruments goes back much further. “The field for fraud is too far enlarged by such an instrument,” a Missouri judge wrote in 1909. “Oppression and tyranny would follow.”

Other states that still allow confessions for business loans impose safeguards. In California, a borrower can’t sign one without a lawyer’s written recommendation. In Pennsylvania, a lender must give notice to the borrower and wait 30 days before acting on the judgment. But no matter where they’re located or who they’re giving money to, cash-advance companies can avoid such restrictions by filing their cases in New York.

Norman Valz, a Philadelphia cash-advance lawyer, says he used to file judgments in Pennsylvania but came to regret it. While he waited for the 30-day period to lapse, his borrowers would often have their assets seized by another lender using quicker New York courts. “New York,” he says, “is the place to do it.”

The obvious venue is the New York County clerk’s office in Manhattan, less than a mile from the financial district where many cash-advance lawyers work. But they rarely use that office. It’s jammed with cases and takes a couple of weeks to process a judgment. Upstate clerks who have lighter caseloads are speedier. The typical wait in Erie and Ontario is one day.

Hoose, the Ontario clerk, says most of the \$225 fee is passed along to the state court system. The \$41 his county keeps isn’t enough to cover labor costs, he says. But since state law allows creditors to file against out-of-state debtors anywhere they want, Hoose has been processing them all, figuring there was nothing he could do to stop it.

That’s about to change soon. Hoose says he plans to start rejecting cases from outside the county. “I believe we have the grounds,” he says. “Stay tuned.”

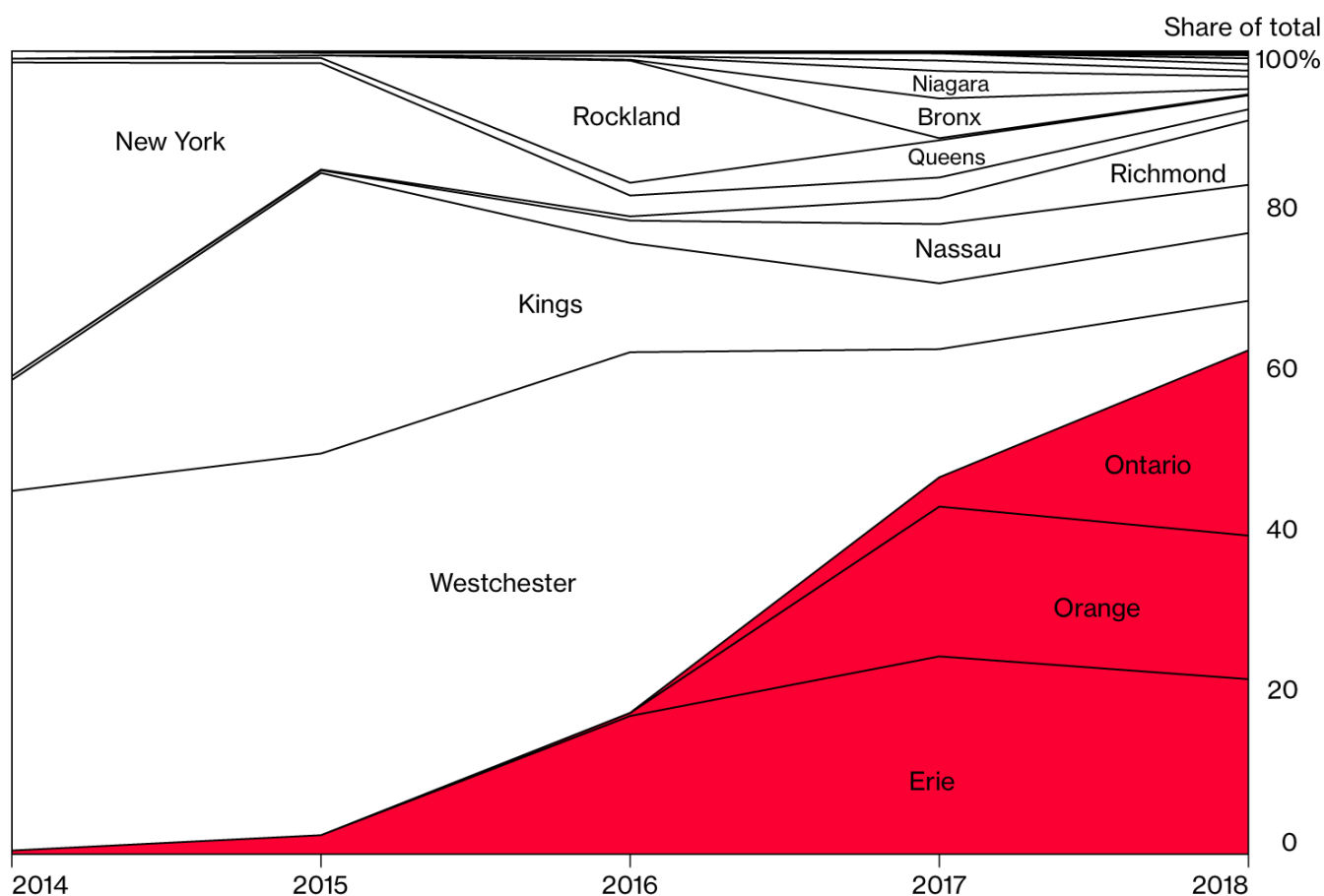
For Paul Piperato, the clerk in Rockland County, 20 miles north of New York City, the breaking point came around the end of 2016. “We were getting inundated,” Piperato says. “So I went to my staff, I said, let’s reject it. They don’t have any ownership in Rockland, no local address. I’m rejecting it.”



**Ontario County Clerk Matthew Hoose.**  
*SOURCE: FACEBOOK*

## Changing Places

Erie, Orange and Ontario have become the most popular New York counties for issuing judgments by confession in favor of merchant-cash advance companies.



**Note:** 2018 data through Nov. 14

Source: Bloomberg News analysis of New York State Unified Court System documents

Piperato says the lawyers got the message. The volume of cases tailed off, from 575 in 2016 to just 22 the next year.

In Westchester County, it was a judge who presented a roadblock. The county was the top choice of cash-advance companies in 2015 and 2016. Then, Judge David Everett tossed out three judgments there, concluding that the deals were loans after all. In a December 2016 case involving a Tennessee pharmacy, he ruled, “The fact that the loan agreement is denominated by another name does not shield it from a judicial determination that such agreement contemplates a criminally usurious transaction.”

Filings in the county dropped, with the volume diverted to other upstate locales. To the industry’s relief, dozens of subsequent rulings in Westchester and elsewhere went the lenders’ way. These judges accepted their long-standing contention that the transactions

aren't really loans and are therefore exempt from usury laws. This year, a state appeals court upheld that view.

No county has awarded more judgments over the past six years than Erie, where Michael Kearns, a former state assemblyman, became clerk last year. He's gathered data about cash-advance judgments and says he plans to discuss the matter with state lawmakers and fellow county clerks.

"The more I learn about these, it does make me feel uneasy," Kearns says. "Someone at least should make the legislators aware of this practice."

Borrowers hardly ever challenge judgments against them. For many, that's because the debts are legitimate. Others can't afford a lawyer because their money had been seized. Those who persevere get a swift lesson in geography. "It is odd that the attorney went to Ontario to file the claim when he is located in New York City," wrote Vyacheslav Borisov, a Los Angeles builder who represented himself in a bid in May to vacate one of Hoose's judgments. Borisov went bankrupt before he could get a hearing in Canandaigua.

Because the industry lends to small businesses, not individuals, consumer laws and protections generally don't apply, and the Consumer Financial Protection Bureau has never asserted jurisdiction. Just as they avoid usury rules, companies sidestep almost all state licensing requirements by saying their products aren't loans. California regulates some cash-advance companies, but many operate there without a license.

Last year, cash-advance executives feared New York was trying to regulate the industry. New York Governor Andrew Cuomo included language in his budget proposal that they believed would open the door to oversight by the state's Department of Financial Services. The industry sent a delegation to Albany to register its concern. The language didn't survive in the budget adopted by the legislature. Cuomo, whose office declined to comment, didn't float the idea again this year.

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**This is the third in a series of articles about the merchant cash-advance industry.**

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Design and development: Demetrios Pogkas and Christopher Cannon. With assistance from Dean Halford and Mira Rojanasakul.

Edited by Robert Friedman and John Voskuhl.

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# A drug smuggler built a predatory lending company while free on bail. Now the complaints are piling up.

Data analysis by David Ingold and Demetrios Pogkas

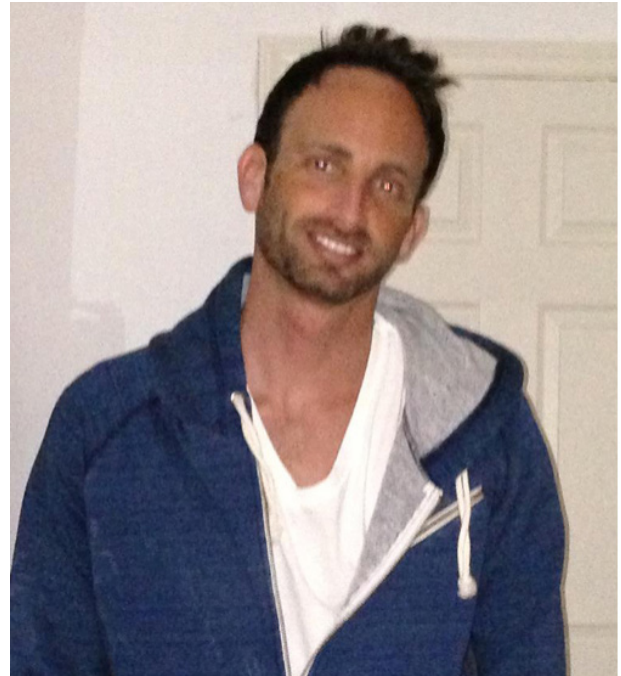
In the seven years that he's been awaiting sentencing, Braun has become a major player in the lucrative field of small-business lending. From an office in Manhattan, he advances money to truckers and contractors across the country at interest rates that would exceed 400 percent on an annual basis. Rivals say he brags that he makes millions of dollars a month.

Two Bentleys and a Range Rover were parked outside the yellow-brick house with Greek columns on Staten Island where he was living in July. An undated video shows his daughter playing with piles of \$100 bills strewn on a table and the floor.

In interviews, a dozen borrowers said Braun has cheated them, sometimes threatening to leave them penniless, or worse. Most asked not to be named because they're afraid of him. The cash advances he makes are perfectly legal, and he uses New York State law rather than violence to collect debts. But borrowers say even compared with competitors, Braun's tactics stand out.

“He is the scum of the earth,” says Michael Gianni, whose California real estate business almost imploded after Braun got a court judgment and seized money from his bank account last year. “He treated me as a non-human.”

Braun, now in his mid-30s, was a drug-smuggling prodigy. The New York Post called him a “mama’s boy drug dealer” because he was living with his ultra-Orthodox Jewish parents in their modest Staten Island home when he was arrested in 2010. Federal prosecutors said Braun worked with the three most powerful organized crime groups in Canada and coordinated shipments of more than 200,000 pounds of marijuana.



Braun. SOURCE: FACEBOOK

He was released on \$8 million bail in 2011 after pleading guilty to importing marijuana and laundering the proceeds. He wore an electronic monitoring bracelet until last year, when the authorities let him stop. He faces a 10-year mandatory minimum sentence.

In an interview outside the lower Manhattan office of Richmond Capital Group LLC, where he works, Braun said the government exaggerated its marijuana case. Balding and skinny, wearing a blue hoodie and Gucci sneakers, he smoked Newport cigarettes as he denied claims that he has abused borrowers, laying out what he said was a conspiracy against him, with rival lenders pushing customers to lie. He said he was too smart to do anything wrong while waiting to be sentenced and asked why anyone would be interested in writing about him.

“What are you, Inspector f---ing Gadget?” he said.

The industry Braun is in calls itself merchant cash advance. Almost completely unregulated, it has grown to an estimated \$15 billion a year. New York State caps annual interest rates on business loans at 25 percent. Cash-advance companies get around that by saying they’re not making loans but buying the money businesses will make at a discount. Judges have ruled in their favor, allowing them to charge whatever they want.

The profits have attracted big money from Wall Street, as well as from shadier operators—drug dealers, boiler-room stockbrokers and payday lenders. At least three cash-advance companies were founded by convicted stock scammers and another by a lawyer





The home in Staten Island where Braun was living in July.

PHOTOGRAPHER: MISHA FRIEDMAN FOR BLOOMBERG

disbarred for defrauding the government of Bangladesh. Two traders who worked at the same Manhattan brokerage and were later banned from the securities industry now run competing firms.

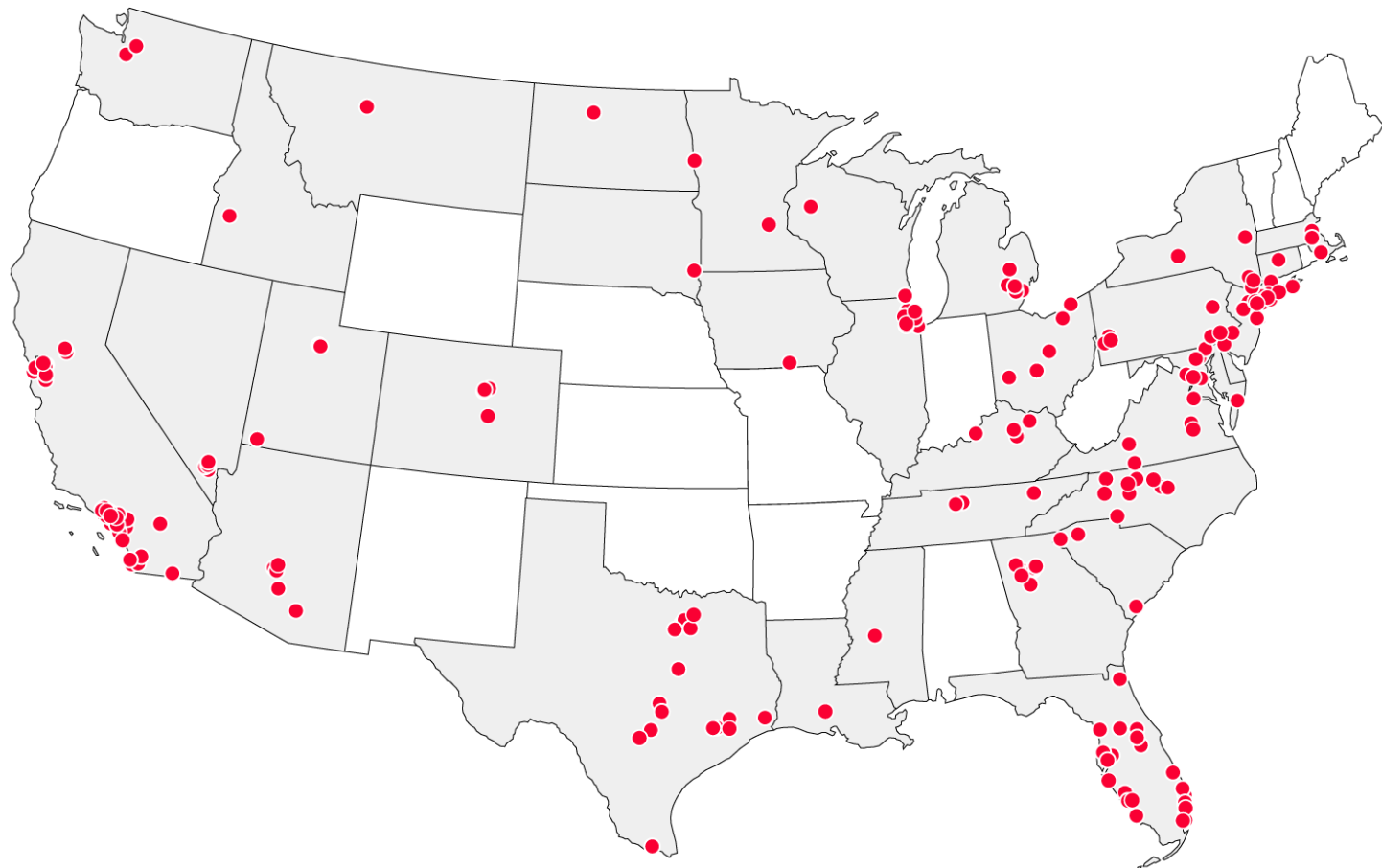
Matthew DeSio, a veteran cash-advance broker, says he had job offers waiting for him when he was released from prison last December after serving two and a half years for assault. He says he went to work for Braun at Richmond Capital this summer, where he saw brokers lie, charge hidden fees and talk people into loans they couldn't afford.

"I had a problem doing business there," says DeSio, who quit after a few weeks. "I don't like to put people in a situation where they're going to default."

Jason Rebhun, a lawyer for Braun and Richmond Capital, said in an email that DeSio was an independent broker renting space in the office, not an employee, and isn't credible. He said Braun hasn't threatened to harm anyone and that some businesses are saved from financial ruin by Richmond's quick cash advances.

## Richmond Capital's Big Footprint

Since 2015, the New York-based cash-advance company has been awarded 252 judgments by confession against small-business borrowers in 33 states and the District of Columbia



**Note:** Data through Nov. 14, 2018

*Source: Bloomberg News analysis of New York State Unified Court System documents*

Collecting a debt from a deadbeat borrower used to be time-consuming. But some cash-advance companies found a way to speed up the process. The key is a legal document called a confession of judgment.

Borrowers are often required to sign one before getting a cash advance. And by signing, they agree to lose if there's a dispute with the lender. Armed with this paper, lenders can go to court, secure judgments against borrowers without telling them and then seize their assets. Cash-advance firms have obtained more than 25,000 judgments in New York courts since 2012, most of those in the past two years, according to data compiled by Bloomberg News. Richmond Capital has filed at least 250 confessions of judgment in that period.

Braun said he's just an employee, but borrowers and rivals who've done business with him say he's the boss and he tells them so. In interviews and court filings, borrowers

accuse the firm of inflating what they owe, falsifying documents and seizing accounts without justification.

A judge in Staten Island ruled last week that Richmond Capital repeatedly lied in court to get a fraudulent judgment against a plumber in upstate New York whose bank account was frozen after he missed only one payment. He ordered the firm to pay the money back. Another customer, Avi Lesches, borrowed \$15,000 to expand the Brooklyn synagogue he managed. He said in a court filing that when he fell behind, Braun took it personally. “Do you know who I am? I will make you suffer for every penny,” Lesches said Braun told him, according to the filing. “Are you on your knees? Can you suck?” Lesches paid off the loan after the lender had his accounts frozen.

Rebhun, the Richmond lawyer, denies Braun did anything improper in either case. He said using confessions and seizing assets is legal and neither inappropriate nor unfair. Some customers try to take the money and run using elaborate tricks, Rebhun said.

“Richmond, like all businesses, seeks to enforce the terms of its commercial contracts and would be out of business if it abandoned its contractual rights to recovery,” Rebhun said. “There is nothing unique or vindictive about Richmond’s use of confessions.”

Gianni, 49, who fixes and sells luxury houses in California’s Napa Valley, borrowed from Richmond Capital and three other cash-advance companies a year ago to cover bills while waiting for construction loans.

Three days before Christmas, Braun called, asking why Gianni had blocked debits from his account. Braun grew angry upon learning that the bank was blocking all such payments while it investigated a fraudulent debit attempt, Gianni says.

“I will make sure you lose literally everything you’ve had in your entire life,” Gianni recalls Braun saying, before referring to Gianni’s mother in vulgar terms. “I am going to take your children and your house and everything you f---ing have, and I will destroy it.”

Before hanging up, Braun said he could empty Gianni’s bank account that day, Gianni recalls. Sure enough, a few hours later, after Richmond Capital filed a confession of judgment, Gianni lost access to his account. Altogether, almost \$40,000 was seized by Richmond and another lender, he says, and a cascade of defaults ensued. He’s still trying to undo the damage.

Rebhun disputed Gianni’s version of what happened but declined to discuss details of his case. In a court filing, a Richmond Capital employee said Gianni had “continuously failed” to make required payments.





**Marijuana and money seized by authorities from the Cournoyer organization. Braun was not accused of involvement in this case.**

*SOURCE: U.S. DISTRICT COURT - EASTERN DISTRICT OF NEW YORK*

Braun dropped out of college and opened a mobile-phone store in 2002. A few years later, he started dealing marijuana. His youth, middle-class background and flashiness made him stand out among Staten Island's dealers, according to John Venizelos, who managed a Brooklyn restaurant with bikini-clad dancers called Jaguars 3 that prosecutors said was owned by the mob.

"He was a regular kid who came into the drug game even though he didn't need to," Venizelos wrote in a letter from federal prison, where he's serving an 11-year sentence for trafficking marijuana. "He obviously thought it was 'cool' and it made him cool." Venizelos said Braun was a customer, not a smuggler, who would buy hundreds of pounds of pot at a time. Braun said he didn't know Venizelos.

According to prosecutors, Braun's marijuana operation raked in more than \$6 million a week at its peak. The pot was smuggled on boats through a Mohawk reservation straddling the Canadian border. It was loaded into vehicles with secret compartments and driven to stash houses in Queens and Staten Island.

When one of the stash houses was robbed of \$100,000 worth of marijuana, Braun flew to California with an enforcer to belt whip the employee he blamed, prosecutors said. Then he went to the home of the employee's parents to collect what he was owed.

In the two years after Braun's arrest, the FBI busted more traffickers, eventually leading to Jimmy Cournoyer, a French-Canadian described by prosecutors as the kingpin. Venizelos, the Jaguars 3 manager, was charged with working for Cournoyer.

Braun spent about a year and a half in jail before he was released on bail. His sentencing in the marijuana case is now scheduled for early next year. Court records don't explain the seven-year delay. He has told competitors in the cash-advance business that he won't have to serve more time, three of them say. John Marzulli, a spokesman for the U.S. Department of Justice, declined to comment.

In June, Braun's rabbi wrote to the court to say, "Jonathan will be a useful and a law-abiding citizen given the chance."

DeSio, the broker who worked briefly at Richmond Capital, says he's baffled that U.S. authorities haven't punished Braun for his drug crimes or investigated his business practices.

"The government is allowing this guy to not only destroy the clients but destroy our industry," DeSio says.

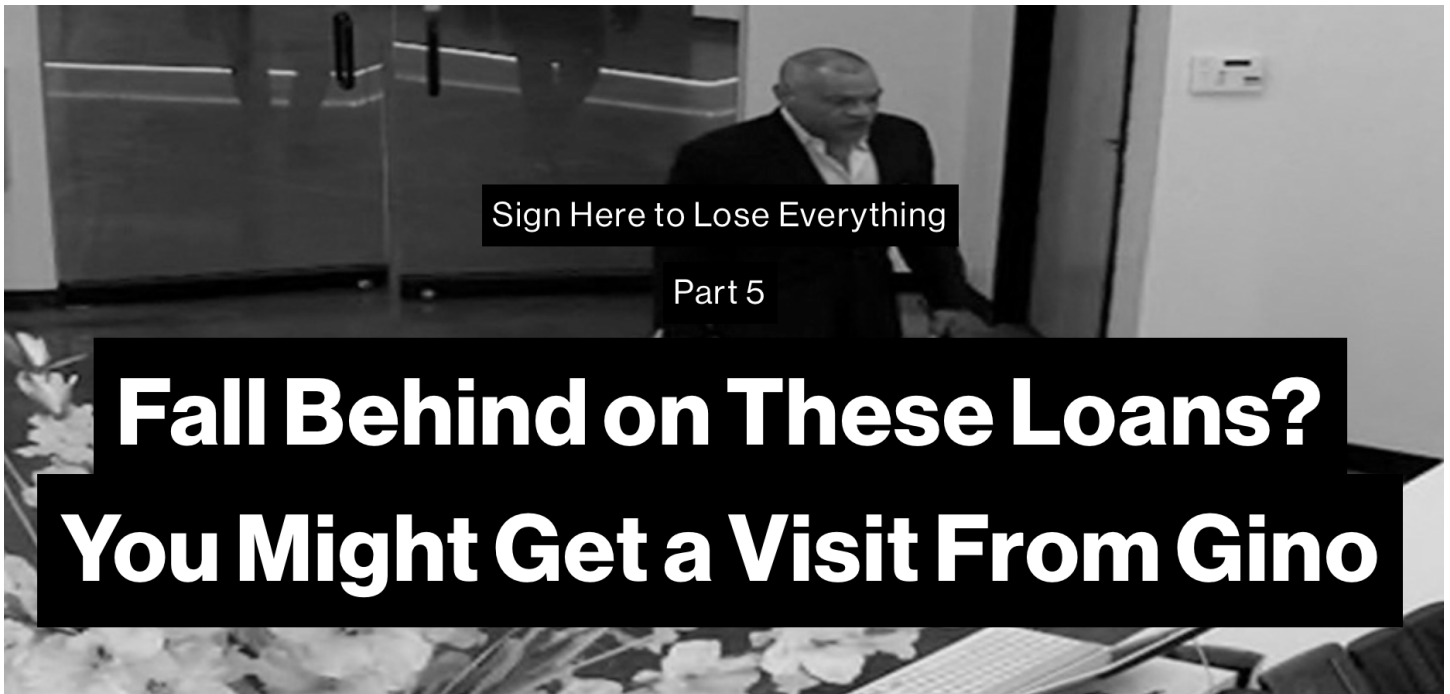
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**Gino Gioe enters the Los Angeles office of Radiant Images on Feb. 15, 2018, captured by a surveillance camera.** *SOURCE: COMPLAINT FILED IN U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.*

## The unregulated cash-advance industry is reviving collection tactics of a bygone era.

By Story by Zachary R. Mider and Zeke Faux

One afternoon in February, a tanned man in a dark suit strolled into a Los Angeles office without an appointment. He was about 5-foot-7, with a bodybuilder's physique and huge, gnarled hands. He identified himself as "Joe's cousin" and asked for the owner.

An employee at the front desk, his face turning pale, took the man to meet the boss, Michael Mansouri. The visitor demanded to know why Mansouri, whose company rents high-tech cameras to Hollywood filmmakers, had stopped making payments on a loan. Then, according to a court complaint Mansouri's company filed, he mentioned another delinquent borrower who'd been mangled in a car crash and remarked: "These are the kind of things which strongly affect wives and children."

Mansouri says he was so shaken that he called the police. He also bought a gun and learned how to use it. "That, to me, is a threat," he says.

For the visitor, a convicted felon named Renato "Gino" Gioe, it was just business. For six years, he traveled the country collecting debts for a Philadelphia company called Par Funding, also



known as Complete Business Solutions Group Inc. The company says on its website that it has advanced \$600 million to more than 2,500 businesses. The effective annualized interest rates on its advances can top 250 percent.

Par is one of a growing number of merchant cash-advance companies that offer fast money to small-business owners like truckers or restaurateurs at high rates. They get around lending regulations by saying they're not making loans—they're buying the money businesses will make in the future at a discount. Judges have upheld this loophole.

The new industry is in some ways a reincarnation of the loan-sharking rackets of a bygone era. Cash-advance companies use a legal document called a confession of judgment to stack the deck against borrowers, just as payday lenders did a century ago. Small-business lending was once infiltrated by the mob. Today it's again a magnet for crooks, including some with alleged ties to organized crime. Gioe's travels around the U.S. show how the regulatory vacuum is enabling intimidation tactics that seem like relics of a lawless past.

Ten of Gioe's unannounced visits to borrowers, from Chicago to small-town Alabama, were described in court papers and interviews with Bloomberg News. He made "threats of violence and physical harm" to employees of a California rehab center, according to one court complaint. A tire-shop owner near Boston said in another court filing he "felt that physical harm would come to me and my family" when Gioe walked into his shop in 2016 demanding immediate payment.

A third borrower, recounting Gioe's visit to his Maryland trucking company last year, described him in an affidavit as resembling "an aging but still formidable character ripped from the World Wrestling Federation" who had been sent not to negotiate but to "intimidate me into making a lump-sum payment."

Gioe was friendlier last month in an interview at the Wall Street office of another cash-advance firm where he now works. Over the six years he worked for Par as an independent contractor, he said, he made more than 700 surprise visits to deadbeat business owners. But don't get the wrong idea, he said. He never tried to intimidate anyone. He considers Mansouri a friend. His



**Gino Gioe in 2012.** SOURCE: COURTESY OF NEW YORK DAILY NEWS.

goal was always to work out a reasonable deal. “I don’t curse,” Gioe said. “I don’t tell them I’m going to f--- ‘em up, I’m going to beat the living s--- out of you. It doesn’t make any sense.”

Wearing a skintight sweater that accentuated his biceps, Gioe held forth for an hour, his mood veering from affable to bored to indignant. He spun an elaborate metaphor about an ambitious stripper and showed off a chest scar from a near-fatal motorcycle wreck.

He didn’t deny his criminal past, which includes convictions for assaulting a woman, smashing a car with a baseball bat and violating a protective order. But he said he’s a different man since leaving prison in 2011, settling down and focusing on his family.

“I found myself,” he said. “Like, universally, organic and the whole bohemian s--- with the Tony Robbins thing. You know what I mean?”

The boss at Par goes by the name of Joe Mack, though his real name is Joseph LaForte and he’s not Gioe’s cousin. LaForte founded Par with his wife in 2011, after serving more than two years in prison for stealing \$14 million in a real estate scam and running an illegal gambling operation. LaForte says he uses the alias to conceal his criminal record, which he says has dogged him even though the charges are a decade old and his loan company follows the rules.

“It’s unfair that this stuff stays around forever,” LaForte says. “Google my name. Look what comes up: mugshots.”

LaForte has a point: The most unpleasant Google results are actually about his grandfather and uncle, both also named Joseph LaForte.

His grandfather, nicknamed “Joe the Cat,” and his uncle, “Buddy,” were made men in the Gambino crime family under boss John Gotti, according to George Gabriel, the lead FBI agent on the Gotti investigation. Both were loan sharks, Gabriel says.

LaForte has never been accused by prosecutors of having mob ties. Asked about the mafia, he says: “I don’t believe there’s any such thing.”

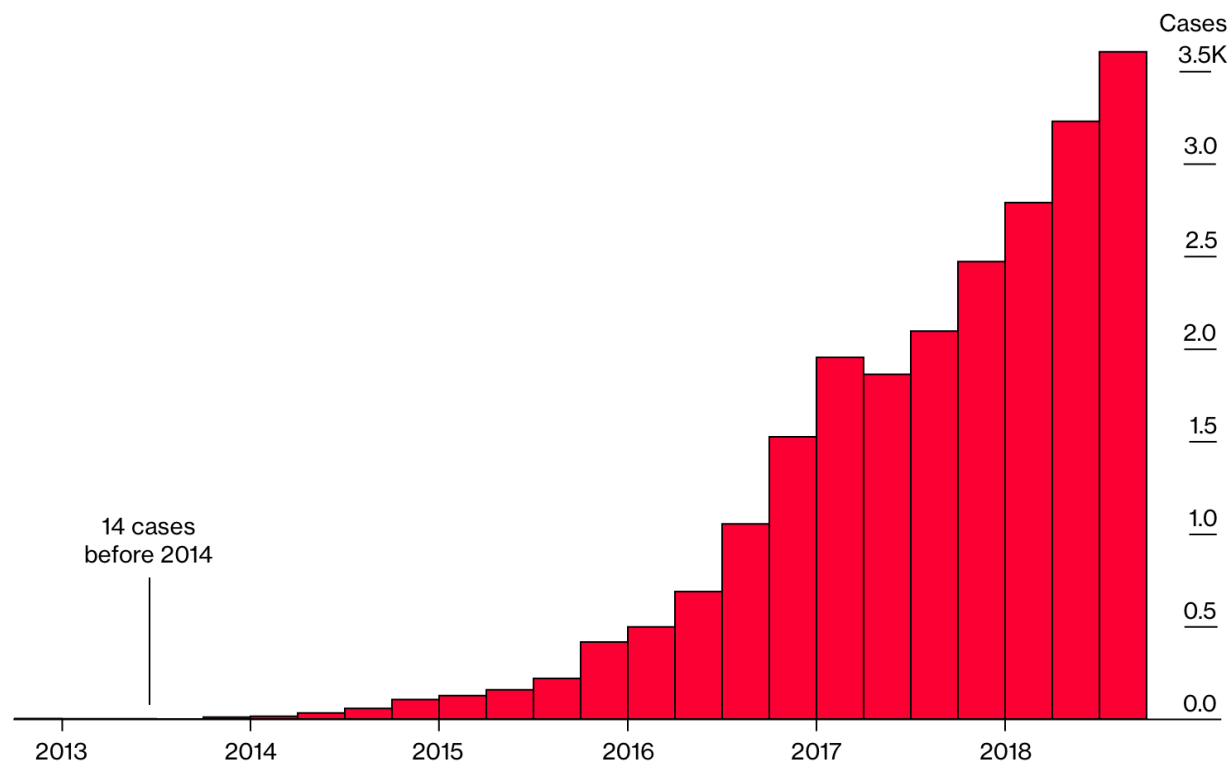
Gioe, 51, is vague about how he connected with LaForte. “Everybody knows everybody, right?” He had an unconventional resume for a finance job. A native of Queens, New York, he spent most of the 1990s in prison after convictions for felony assault, criminal mischief, drug dealing and stealing a Jeep.

Released in 2000, Gioe turned his past into an asset: He marketed himself as a high-end personal trainer with a “jailhouse workout” honed in the joint. Men’s Fitness magazine featured him as “The World’s Toughest Man” in a recurring advice column. After more drug arrests and another four-year prison stretch, he mugged for a New York Daily News profile promoting his training methods.



## A Confessions Boom

Judgments by confession in favor of merchant cash-advance companies in New York state



**Note:** Totals by quarter

*Source: Bloomberg News analysis of New York State Unified Court System documents*

A planned workout book never materialized, and instead Gioe joined the cash-advance business. In-person debt collection is rare in the industry, even though borrowers often fail to repay their loans. Many companies legally seize assets from delinquent borrowers by using confessions of judgment—documents in which debtors agree in advance to lose any dispute over the transactions—to short-circuit the court process.

Par uses confessions too, but LaForte says he sent Gioe to help customers work out payment plans as an alternative to going to court. A lawyer for Par, Justin White, later said in a letter to Bloomberg News that neither LaForte nor anyone else at Par supervised Gioe's work.

"He sits down like a gentleman," LaForte says. "He would never ever do anything wrong to anybody."

Gioe said he has saved many businesses from bankruptcy. People who claim to be intimidated might be prejudiced against Italians, he said. While his newspaper and magazine profiles mentioned mob ties, he said that's not accurate.

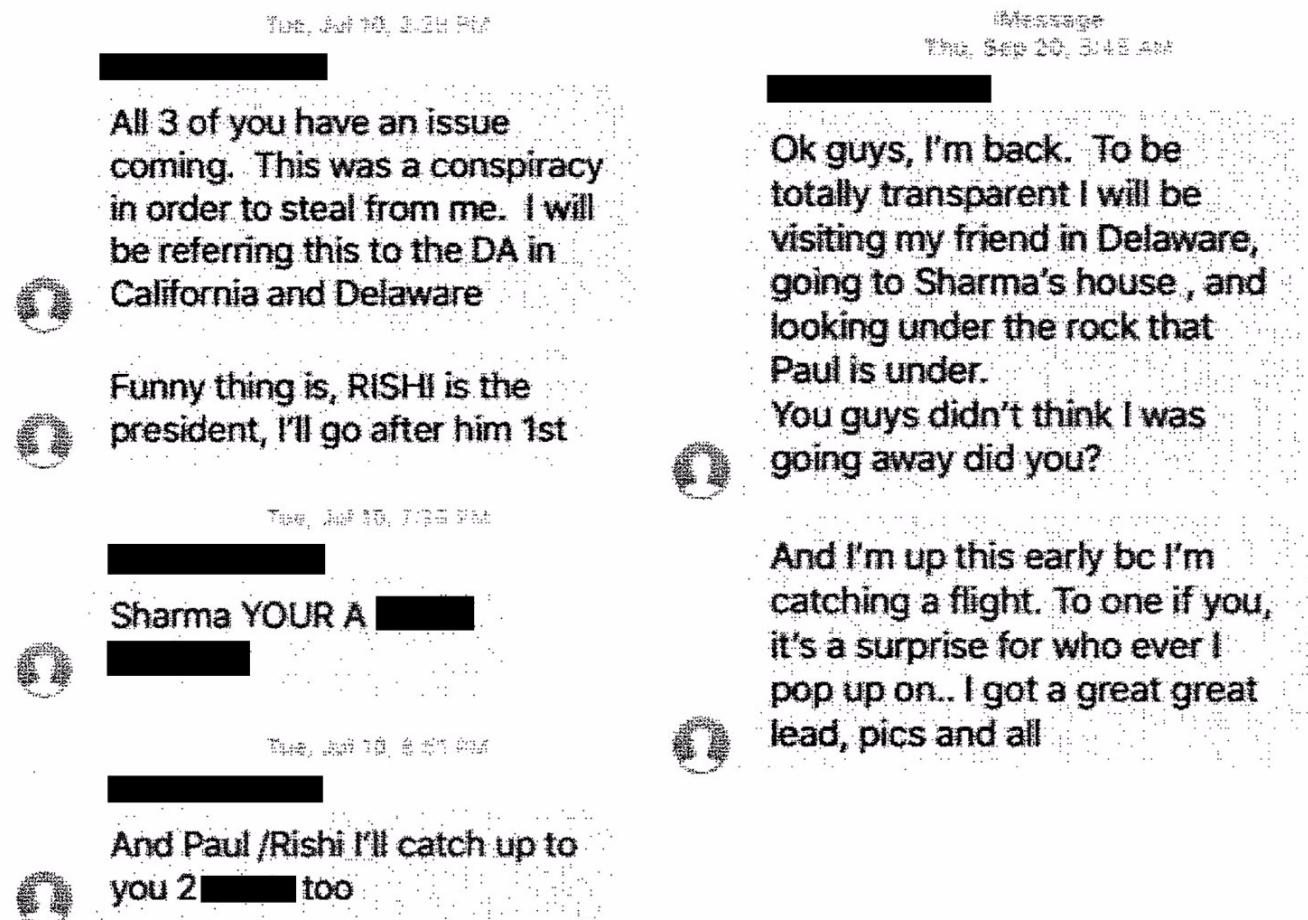
"Ninety-nine point nine percent of the merchants are receptive to the one-on-one," Gioe said. "When I finally talk to them, they realize there is a solution."

Gioe's visits followed a pattern. He would show up unannounced, demand to speak to the owner and say he wasn't leaving until he got paid, according to the people who described the visits in court records and interviews. All of the people say Gioe seemed to be trying to intimidate them. Four say they called the police, though no charges were filed.

Mansouri, the co-founder of the movie-camera company, says Gioe chose his words carefully to scare without making explicit threats of violence. His business, Radiant Images, brought the lawsuit describing Gioe's visit as part of a dispute with Par over \$2 million in debt. The case was later settled.

Gioe could be persistent. When he showed up at a beauty-supply warehouse in Chicago last year, its new owner, George Souri, told him a bankruptcy judge had ordered creditors to back off. "We don't deal with courts, we have our own ways to collect," Gioe responded, according to an affidavit Souri filed in the bankruptcy case. When Souri forbade him from speaking to the warehouse's former proprietor, Gioe remarked, "We'll go to her house and deal with her there," the affidavit states.

Gioe said the former owner had borrowed \$1 million from Par with no intention of paying it back, and that he was the one who felt physically threatened by Souri, a younger man with



Texts sent by James LaForte to Tonmoy Sharma and two of his employees at a California rehab center. SOURCE: COMPLAINT FILED IN NEW YORK COUNTY SUPREME COURT.

martial-arts training. Reminded that Sourì was the one who called the police on him, he said, “Yeah, can you believe it?”

Tonmoy Sharma, who runs the California rehab center, said in his court complaint that he received threatening texts from someone else connected to Par: LaForte’s brother James.



Joseph (left) and James LaForte.

James warned Sharma he was on his way to Sharma’s house, according to the complaint. “You guys didn’t think I was going away did you?” he texted.

Federal prosecutors in New York described James LaForte in a 2012 court memo as an associate of the Gambino crime family. He has served time for loan sharking and having someone’s car torched, and he was convicted for the same real estate scam that landed his brother in jail. White, the lawyer for Par, said that James LaForte denies having any ties to organized crime. James LaForte didn’t respond to questions about the text messages.

Joseph LaForte says his brother is an outside broker for Par who sometimes helps him collect debts but isn’t an employee. He says Par had a right to pursue Sharma for renegeing on millions of dollars of debt.

James isn’t the only alleged mobster to turn to the cash-advance business. One of his co-defendants in a 2012 racketeering case, identified by the FBI as a member of the Bonanno crime family, now brokers loans on Staten Island. And another man the FBI once called a Gambino associate works for a similar firm in lower Manhattan.

Joseph LaForte says that even though Gioe was helping borrowers, a few did complain about getting a visit. To avoid any more trouble, he says he replaced Gioe earlier this year with two women who call ahead and make appointments. He also told Bloomberg News that a story about Gioe would be inappropriate since he recently died.

For his part, Gioe says he’s not dead and that he parted ways with Par because “the money wasn’t right” and he was getting sick of the travel. He now works as a salesman for another cash-advance company and says he still does fitness coaching for a few wealthy professional women. “There’s no limits,” he says he tells them. “You never say ‘I can’t.’”

—With assistance from Bob Van Voris