

Searching for Hidden Assets during a Divorce Discussing Property Division with your Florida Family Law Attorney

It is not uncommon for one spouse to handle a family's finances, leaving the other spouse with little to no information about the parties' assets and liabilities during a dissolution of marriage proceeding. Florida has rules of procedure that permit each party to request information from the other party and third parties so both parties may have as complete an understanding as possible about the parties' finances.

For particularly involved cases, parties may want to consider hiring a forensic accountant.

Some places to look to identify undisclosed or "hidden" assets:

- 1. Personal Financial Statements** – These are forms submitted to a financial or lending institution when seeking a personal or business loan. Comparing these statements against financial affidavits submitted to the court or with older such personal financial statements may reveal discrepancies warranting further investigation.
- 2. Financial Institution and Securities or Brokerage Accounts**
 - a. Statements** – Acquiring several years of statements or passbooks for financial accounts (savings, checking, money market, etc.) may help identify areas for further inquiry. For example, regular deposits could mean another source of income exists or substantial withdrawals around the time of separation may indicate a new account was opened or a party retained the cash on hand.
 - b. Check Registers or Cancelled Checks** – A review of check registers or cancelled checks could reveal the purchase of previously undisclosed property.
 - c. Children's Accounts** – Sometimes a spouse hoping to conceal money will establish a custodial bank account in the name of his/her child or children. Review the timing of when the account was opened and the frequency and nature of the deposits and withdrawals to identify suspicious activity.
- 3. Credit Card Statements** – If a spouse retains money from cash advances and it is not properly accounted for in the equitable distribution scheme, it may result in an unequal distribution in his or her favor. Carefully review credit card statements to identify unusual withdrawal activity that may warrant further inquiry.
- 4. Personal Tax Returns** – Personal income tax returns may help identify sources of income such as interest, dividends, trusts, partnerships, or real estate. A careful comparison of federal, state, and amended income tax returns along with their supporting documents may reveal areas that warrant further discovery.
- 5. Check Your Credit Report** – A credit report may reveal previously unknown or unusual financial activity including unfamiliar credit inquiries or accounts.

6. **Loans or Debts to Friends/Family** – Friends and family sometimes provide loans with little to no formal documentation. The payback of one of these types of loans may require additional inquiry if it occurs around the time of separation.
7. **If a Spouse has a Sole Proprietorship, or a Controlling Interest in a Closely Held Business or Partnership**
 - a. **Corporate tax returns** – A careful review of corporate tax returns may be in order. A principal owner could change his/her income from the business through paying personal expenses through the business, taking loans from the business, or retaining earnings within the business.
 - b. **Partnership tax returns** – A review of partnership tax returns over several tax years could reveal changes to partnership interest or distributions which may warrant additional inquiry.
 - c. **Business Financial Statements** – Balance sheets, profit and loss statements, and other business financial statements may provide further details and insight to items reflected on the business's tax returns.
 - d. **Employees** – A close review of the people on payroll may be warranted. A friend or family member may be on the payroll even though he/she does not provide a beneficial service to the business. This would decrease the business's profits and could provide the spouse with a potential source of kickbacks.

8. Spouse's Income

- a. **Over-Withholding of Taxes** – A spouse could intentionally over-withhold tax from his or her pay in the hopes of receiving a large tax refund after the divorce has been finalized. Carefully review pay stubs to identify questionable tax withholding practices.
- b. **Deferred Compensation** – A spouse may request his/her employer defer a bonus or commission until resolution of the dissolution of marriage proceeding. If this is suspected, Florida rules of procedure permit parties to subpoena information from third parties such as employers.

Be open and honest with your Florida family law attorney. Discuss with your attorney the costs and benefits to engaging in discovery. Express all your concerns to him or her so you can strategize together and ensure your concerns are fully addressed.