

October 30, 2013

Bonnie Sockel-Stone

Discovering Hidden Assets: What Your Spouse Hasn't Disclosed During Your Divorce

What should you do if you think your spouse failed to disclose assets during your divorce proceedings? What if you don't have the funds to hire a forensic accountant or some other investigative professional? Don't despair; there are many things an experienced divorce attorney can uncover during the discovery process. Don't rely solely on your spouse's financial affidavit. Your attorney must request tax returns, pay stubs, bank statements, cancelled checks, brokerage account statements, credit card and other financial statements, and then review these documents carefully to find useful information. If you follow these 10 easy steps, you just might find what you're looking for.

Step 1: Review the tax returns and 1099s to make sure the bank accounts in which interest is being reported and the brokerage accounts in which dividends have been reported have been disclosed.

Step 2: Conduct a public records search under your spouse's name to see if he or she owns any real property that wasn't already disclosed.

Step 3: Review the pay stubs and other backup documentation for your spouse's income and review the bank statements that were produced to make sure that all the income can be traced to a financial account deposit. For example, if your spouse's after-tax income is \$20,000 per month and there are only deposits of \$7,500 per month, there may be an undisclosed bank account in which income was deposited.

Step 4: Review the cancelled checks and backup documentation for the payment of various bills, such as credit cards, mortgage payments, utilities and car payments. If these bills are

not being paid out of the bank accounts that were disclosed, then there may be other undisclosed financial accounts that are being utilized to pay these bills.

Step 5: Issue a subpoena to your spouse's employer requesting information regarding any type of benefit, deferred compensation plan, stock options or retirement plans.

Step 6: Make sure the total monthly family expenses do not exceed the monthly income. If the monthly family expenses exceed the monthly income and savings have not been utilized to fund the deficit, there is most likely undisclosed cash or other income.

Step 7: Review the financial account statements for any transfers to undisclosed accounts and subpoena the backup documentation to see who owns the account that received the transfer.

Step 8: Review the credit card statements, cancelled checks and wire transfers for significant purchases of jewelry, antiques, artwork, etc. that have not been disclosed.

Step 9: Review the credit card statements, cancelled checks and wire transfers for payments of expenses for any asset that has not been disclosed. For example, if there is a payment for property taxes and insurance on property other than marital home, there may be undisclosed real property.

Step 10: Depose your spouse. Your spouse will be under oath and can face serious sanctions for lying. This is the time to ask your spouse questions about the things that just don't add up. For example, if your spouse has just disclosed one bank account and after review of the cancelled checks and bank statements, it is determined that the car payments, utilities and other monthly bills are not being paid out of this account, then your spouse will have to explain under oath what accounts are being used to pay these bills.

Going through a divorce is a very stressful time. Regardless, you should make sure you understand the steps your attorney is taking to determine the actual marital estate and your spouse's income. Ask your attorney to provide you with copies of all documents and do not feel uncomfortable about asking specific questions about their review of the documents.

Bonnie Sockel-Stone is a board certified marital and family law attorney and partner of Foster-Morales Sockel-Stone. She can be reached at bonnie@fostermorales.com or (305) 577-0090.