

The Role of the Forensic Accountant in Divorce and Child Support Cases (provided by Sandra L. Popescu, CPA)

What do **Sherlock Holmes** and Forensic Accountants have in common? Both are investigating clues that will lead them to uncovering the suspect's misdeeds. In divorce or child support proceedings, assets and income need to be identified in order to divide the assets and calculate alimony and support payments. If the information was readily available, the courts could fairly easily go through their calculations. But, more often than not, things are far from being black and white.

Unfortunately, divorce and child support/custody proceedings tend to bring out the worst in people. Although you may have originally thought your ex-spouse was everything you ever wanted, sometimes it may seem you married a Jekyll & Hyde.

While most criminals have an economic goal in mind for their crimes, ex-spouses are motivated by complex feelings of love, hate, humiliation, revenge, loss, etc. Logic and character seem to fly right out the window when these emotions enter the picture. Rarely does the ending of a relationship allow the parties to maintain the same level of livelihood since it is far more costly to maintain two households than one. The loss of financial well being, the future instability it initiates, and perhaps feelings of revenge and humiliation all play into the attempt to deprive the other spouse of their rightful share.

When dealing with a dishonest ex-spouse, the forensic accountant needs to be engaged at the outset of a case. Since the forensic accountant often requires more information than found in mandatory disclosures, the attorney and accountant need to work together closely to be cost effective and successful. The forensic accountant uses a combination of accounting, auditing and investigative skills to assist their clients. While successfully uncovering hidden income and assets is never guaranteed, the use of certain techniques may produce successful results.

CHEATING EX-SPOUSES: Let me count the ways . . .

The more devious the individual, the more likely the truth is being hidden. If your ex-spouse has lied to you about money issues or been less than honest in other business dealings, then there is a good chance that money is being hidden. Many ex-spouses complain about their poor financial situation hoping to persuade their other ex-spouse and the courts that there is no money. Ironically, recent studies indicate that shortly after a divorce the supporting ex-spouse's finances soar upward and the supported spouse's finances decline.

Underreporting income and assets can be accomplished in a number of ways regardless of whether the individual is an employee or is self-employed. Knowingly or unknowingly, employers often become accomplices for the dishonest ex-spouse. If your ex-spouse has worked for the same employer for a period of time, there may be a strong relationship there and the employer may be more accommodating to the employee's immediate needs. Or, your ex-spouse

may be self-employed and have ample opportunities for deception. Here are some areas that should be investigated more closely:

- **SALARY DEFERRALS UNTIL AFTER THE DIVORCE OR CHILD SUPPORT PROCEEDINGS.** These need to be scrutinized carefully. Is it unusual for your ex-spouse's income to suddenly decline?
- **BONUSES.** Does your ex-spouse normally receive a bonus? Look for deals where partial bonuses are paid and the other portion is put into a separate account accruing to the benefit of the employee. Be aware that bonuses can be deferred for future distribution.
- **ANNUAL LEAVE/SICK LEAVE/PERSONAL LEAVE.** If your ex-spouse does not use the allotment given in a year, there may be additional income available for the days unused.
- **EXPENSE ACCOUNTS AND OTHER FRINGE BENEFITS.** The employer may be providing expense accounts, health/dental insurance, life insurance, company car for personal use, paid parking, country club or health club memberships, clothing & uniform allowance, meal allowance, etc. These expenses may be paid directly by the employer or reimbursed to the employee. These need to be identified and added back to income if appropriate.
- **VACATION OR BUSINESS TRIPS.** Does the employer pay for extra days at hotels when the business part of the trip has been completed? Does your ex-spouse have other company-owned "get aways" at his or her disposal?
- **STOCK OPTIONS OR GRANT STOCK.** A stock option is the right to buy stock in a company generally at a reduced rate. If the option has been exercised, you may not be aware of the existence of a valuable asset. Grant stock may have also been issued to the employee. Whether exercised or not, both stock options and grant stock can be very valuable.
- **SPECIAL ARRANGEMENTS WITH EMPLOYER.** Does the employer pay any of your ex-spouse's personal expenses or receive a percentage of the profits? Does your ex-spouse own a controlling percentage of the company and is, therefore, not just an employee but also an owner/operator?

A closely-held business is extremely vulnerable to manipulation. Areas of concern include:

- **FRAUDULENT ACTIVITIES.** Are there any suspicious transactions on the books that might warrant further investigation? It's always a good idea to review the state payroll tax return with the client. The client may notice payments to parties not working for the business such as minor children, friends, "significant others," and family.
- **AUTOMOBILE & OTHER ASSET OR PURCHASE WRITE OFFS.** Was there any personal use here that should be added back to the ex-spouse's income? Were the assets originally purchased and owned by and in the company's name? Are these normal for the company/industry?

- **WRITING OFF PERSONAL EXPENSES AS BUSINESS EXPENSES.** This is always an area of concern. Accounts should be reviewed for reasonableness along with the list of suppliers. Are these typical expenses and suppliers for this kind of industry?
- **REPAIR & MAINTENANCE EXPENSE.** Are these truly for the business? Why would the company have pool service repairs?
- **RELATED PARTY TRANSACTIONS.** Again we want to verify that these are all legitimate business expenses? Are any “significant others” being paid as consultants or employees? Are the services or products really being provided? Are there any cross-transactions where a party acts as both a vendor and customer on the books (The names may be different but the ownership is the same)?
- **DELAYED INCOME.** Is the business delaying sales or collections arbitrarily? Have they entered into any delayed contracts or accepted down payments for future sales? What is the normal collection period? Have they made any attempts to collect?
- **BAD DEBT EXPENSE:** Are there any unusual write-offs? Do they appear reasonable given the past history?
- **UNREPORTED CASH TRANSACTIONS.** We all know that cash transactions are open for easy manipulation. From your past experience, how is the cash usually generated, who handles it, and how much are we talking about?

This list is by no means all-inclusive. In fact, professionals may have even more opportunities for abuse because many times the practice name is the same as the professional. Therefore, checks for services may be deposited into the business account or a personal banking account or simply cashed. You may think that this may pose an impossible scenario to uncover, but there are techniques to reveal these fraudulent acts as well, which we will address at another time.

And thus we will end here with a quote from Sherlock Holmes, “The more bizarre a thing is the less mysterious it proves to be. It is your commonplace, featureless crimes which are really puzzling, just as a commonplace face is the most difficult to identify.”

Your divorce/child support case may be just that!

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