

Divorce in New Jersey - Gathering Data

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Information is power. In order to be in a position to deal with issues in your divorce case, you must have information concerning assets, debts, income and expenses. No agreement or settlement can be considered fair unless you have full knowledge of the marital finances.

Toward that end, you should begin gathering information on income, expenses, an itemization of all accounts, pension information, employment benefits, insurance information and all other financially relevant information at the outset of your case.

- Do not assume that you know the answers.
- Do not trust your spouse's verbal representations.
- Do not be overly suspicious or distrustful.

In virtually every case, the basic information which you should begin gathering are copies of:

1. The past three years' personal tax returns.
2. The current year's bank statements.
3. The current year's brokerage account statements.
4. The current year's credit card statements.
5. Any quicken or a similar computer software program itemizing your expenses.
6. The last three years' year-end employment benefit statements for you and your spouse including 401(k) plans, pension, deferred stock, stock options or deferred compensation.
7. Copies of any life insurance policies.
8. Policy numbers, insurance company names and coverage limits for health, auto and homeowners insurance policies.

In any case in which one of the spouses is self-employed, owns a small business or is a shareholder in a closely held corporation, you should also try to obtain copies of:

1. The past three years' tax returns for the business.
2. The past three years' financial statements for the business.
3. Any loan applications with supporting financial statements submitted to a lender by the business.
4. Any Buy-Sell Agreements.

As you and your attorney begin to see the financial records, you should discuss with your attorney whether you need to employ a forensic accountant. If there are assets which cannot be located or easily defined, if there appears to be unreported or cash income or if there is a professional practice or business to be evaluated you will almost certainly need to engage an accountant.

In some cases, we do encounter a spouse who will deliberately attempt to conceal the records, and if that happens in your case, you and your attorney must take a much more aggressive and proactive approach. For example:

1. If you know there is cash in your home, you should take it into your possession and immediately inform your attorney.
2. If you know there is a second set of books or business records, you should copy them, seal the copies in an envelope and mail them to your attorney. The postmark will identify the date in which you obtained and mailed the records, the integrity of them can then be protected by your attorney's office.
3. If you begin to see mail or financial statements that are not familiar to you, make copies.
4. If you have access to your spouse's cell phone records, make copies.
5. Make copies of any credit card statements whether they are your accounts, your spouse's accounts or joint accounts.

The more information you can gather, the better informed you and your attorney will be as you begin the formal discovery process discussed later.

For more information on this topic, please contact Megan Smith at msmith@offitkurman.com.