



ÆGIS e-journal

Addressing threats that affect your bottom line

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1. Due Diligence — Location of hidden assets in divorce proceedings

Divorce cases are like many other types of commercial litigation. Sometimes the parties are reasonable, and sometimes they are at each others throats. Or lower. Excluding the issues of child custody and, the reason for the divorce (some place still require a real proof of cause for a divorce, as opposed to a no-fault jurisdiction that requires only “irreconcilable differences”), a divorce is mostly about who gets what. That “what” are assets and income.

A marital community builds assets through income, the ownership of domestic assets, commercial assets, intellectual property, and collectibles.

Income. What is the income of the parties to the divorce? Most of the time it is easy to determine, however it can still be tricky. Does a person have a low income and receive options or other employee benefits? Does the person work at a family business, and is their income substantially lower than others in a given position at other similar companies? Is this an artificially low level? A test of reasonableness needs to be applied. We have seen, for example, a man working as the president of a company with hundreds of millions of dollars in revenue earning \$48,000 per year. It was a family held business and the compensation was absurd. Comparative salaries for similar companies was over \$741,000 dollars. It was later admitted that the family kept his wages low because of the possible divorce.

Domestic Assets. Over a period of time a marital community acquires *stuff*. Little trinkets, jewelry, carpets, homes, cars, boats, etc. For many, this can represent a very substantial part of the assets, and needs to be appraised and divided appropriately.

Commercial Assets. Many professionals work in a professional practice that is their own business *per se*. They are the value provider, and there have been several cases deciding that a professional license can be an asset of the marital community, and that the present value of future income from that license can be quantified and divided by the members of the separating community. Many people own businesses, and those businesses have value.

Intellectual Property. This has often been dealt with as a subset of commercial property. As computer programming and process patents come into their own, it will need to be addressed separately and valued separately. Copyrights, trademarks, patents, and trade secrets are the engine of the modern economy. This simple process and pieces of paper can be worth anywhere from nothing to hundreds of millions of dollars.

Collectibles. Art collected over time many have more sentimental value than cash value. Trinkets, china, art, sculpture, and other collectibles can have considerable value. A recent case reinforcing this view prompted the separation of collectibles out of domestic assets for this article. An appraiser was walking through a house that was filled with all sorts of different types of baskets. Many of the baskets looked to the untrained eye (ours) like kindling. However, many of these baskets were antique early American baskets made from oak and cedar strips, and were worth several thousands of dollars *per basket*. In fact, when the appraisal was completed the value of these old baskets totaled over \$320,000. Neither of the parties to the marriage was aware of the true value of the baskets.

Some divorces are relatively amicable, and, while there may, as with the baskets, be some question as to the actual value of the community property, there is no attempt to hide it from the other.

Some divorces, however, are less amicable, and there may be an actual serious effort made to hide property. In one extreme case on which we worked, 35 bank accounts were disclosed in discovery. As chance would have it, we had prudently been brought into the case early, and ended up finding an additional 151 accounts (In all modesty, we happen to be particularly skillful at locating hidden assets).

Most important, since specific advice depends upon specific facts seek competent legal advice *early* and work with an attorney in gathering information *early* when divorcing.

When preparing for a divorce, make copies of financial records, bank statements, tax returns, deeds, titles, insurance policies, personal telephone books, telephone records, credit card statements, and frequent flyer accounts. And make a video tape of the physical property. In particular:

- 1) Pull the joint credit history, obtain copies of your — and your spouse's — credit report directly from the credit reporting agency.
- 2) Request copies of tax returns from the IRS.
- 3) Trace, with subpoena if necessary, all of the large transfers in the last year: They are always there.
- 4) Subpoena the offending parties employee records including all benefits.
- 5) Subpoena all credit cards statements, telephone bills, frequent flyer statements.
- 6) Identify all art work, collectibles, and jewelry.

Finding hidden assets generally requires an investigator (attorneys are no more investigators than investigators are attorneys). In some places investigators are prohibited by law from working on a contingency basis, so they are likely to require what is referred to as cash money — as well as time and information — to do their job. We have seen way too many cases where counsel has exhausted most of their client's available funds — and most of the available time — before even thinking of collecting data or bringing in an outside investigator. Because of this it is important that, if you are on the participant side of a divorce, you be an active participant. You should start collecting information as early as possible, have your attorney subpoena any records that can't be found as early as possible, and, if appropriate, bring in an investigator as early as possible.

2. OPSEC, Economic Espionage, and Competitive Intelligence — Join with your peers.

For most of us, experience comes with, well, experience. In the best of all possible worlds we learn not only from our own experience, but also from those who have more experience than do we. In the world of CI there is a lot of good experience around. We can find it in our colleagues, in books, in courses, and in seminars offered by professional organizations.

A significant resource in the field of CI is the *Society of Competitive Intelligence Professionals* (SCIP), <http://www.scip.org/>. *SCIP* has local chapters all over North America, and increasingly throughout Europe, which provide meetings to discuss local issues and bring seasoned and beginning CI professionals together, educational programs, several informative publications including a bi-monthly magazine and quarterly journal, and two excellent (i.e., this editor has been invited to speak) major conferences each year. The next *SCIP* conference (15th annual) is being held 29 March through 1 April 2000 in Atlanta, Georgia, USA. The 5th annual European conference will take place 25 October through 27 October 2000 in London. *SCIP* is *the* forum for networking among the world's leading CI professionals, and contacts made at *SCIP* events are worth their weight in gold.

For those of you especially interested in Central and Eastern Europe, we'd recommend you explore the *Central & East European Business Intelligence & Knowledge Management Community* (*Central & East European BI & KM Community*) at <http://www.bikm.com/>. This site features the *BI & KM Journal*, an electronically-published professional journal covering a wide range of topics in the world of BI and KM through original, local-sourced papers and papers garnered from the likes of *SCIP*, the *ÆGIS* e-Journal, and

other international sources, in the Czech, English, Hungarian, Polish, and Slovak languages. The site also features objective news reporting, sources listings, events listings, book listings, literature & product reviews, glossary, and interactive discussion forums — all, for the most part, available to the public at no cost. They are also in the process of calling for papers for their next set of conferences, workshops, and exhibitions to be held virtually on the Web and physically in Budapest, Prague, and Warsaw (and yes, we have been invited to speak for them, too). We recommend that you look at this site. If you are in Central or Eastern Europe, we suggest you look at their conference schedule and attend some of their informative and affordable events.

Upcoming events will focus on audio recording of conversations for CI professionals and investigative journalists, the effect of the European data protection act on the BI and niche electronic media professions, CI and counter-CI for SMEs, and business knowledge and intelligence sources — revolutionary developments in the age of the Internet. Regardless of whether you can or cannot physically attend one of these upcoming events, you should participate since many of the events are also produced on the Web with interaction discussion lists, chat sessions and streaming audio and video. They are seeking experts, from practitioners to consultants to technology solutions providers, to present at their upcoming events for Central and East European audiences, according to the *Central & East European BI & KM Community*.

In addition, all of you should consider the amount of experience you have to share and submit articles to the *ÆGIS* e-Journal, to *SCIP*, and to the *Central & East European BI & KM Community*.

For those of you interested in beating off the CI attacks of your competitors, as well as lessening the chance of economic espionage attacks, you need to be involved in *OPSEC* (OPERations SECURITY), which is the protection of sensitive but unclassified information. This is a mature process being continually refined by *IOSS*, the *Interagency OPSEC Support Staff* (<http://www.ioss.gov/>).

3. Executive Protection — High-end jewelry equals high-risk

High-end jewelry and precious gems remains high on the target list of organized crime.

Jewel thieves typically have excellent intelligence gathering techniques that include overt and covert surveillance, impersonations, and ruses. They appear to have much success at breaching both operational and

communications protective measures, mostly against traveling jewelry vendors or Trunk Shows, as is the industry moniker. Their *modus operandi* usually entails swift and violent means that involve two or more vehicles and between six to eight heavily armed individuals, using paramilitary techniques to disarm existing protection, including deadly force without hesitation, to liberate all merchandise and be gone in under two minutes, depending upon the operation. In days gone by, a more subtle approach such as disabling a vendors automobile or distracting them was commonplace, but today's new breed of jewel thieves are more than willing to use explosive violence first.

Recent statistics, according to the Jewelers' Security Alliance (JSA), show there have been 160 off-premises crimes against traveling jewelry personnel since the beginning of 1999, with losses totaling \$41 million. This is up over 50 percent compared to the first six months of 1998. Crimes against trunk show personnel make up 24 percent of the dollar losses of off-premises crimes since January 1, 1999. Trunk and remount shows are attractive targets for thieves for a variety of reasons: The events often include high-value merchandise, they are publicly advertised, and the jewelry goods are hand-carried from one store to the next.

The growing use of armed escorts has not deterred these criminals. There are many incidents in which armed escorts have been overpowered and disarmed, and JSA believes it is just a matter of time before more tragedy strikes, resorting to more loss of human life.

Recent losses include:

In February 1999, five armed suspects robbed a Monterey (California) trunk show sales agent at gun point as he arrived at the front door of a retail jewelry store where the show had been publicly advertised. The salesman was forced to the ground and a gun held to his head while he was searched and robbed. Reported loss was \$1,000,000.00.

In Ogden (Utah), a traveling salesperson was unloading his vehicle in connection with an advertised trunk show at a retail store. An off-duty police officer, hired as an armed escort, saw several men approaching them. Before he could react, he was knocked down by an automobile and attacked by several men as he lay on the ground. Six men in two vehicles fled with the merchandise as the off-duty officer managed to fire several shots at them.

In Palm Desert (California) an armed escort — a retired police officer — was escorting a salesman home after a day of cold calls in L.A. when he spotted a car following them. The escort took evasive action, presuming to

shake their tail, only to be attacked in front of the salesman's home by two armed robbers who appeared from behind the shrubbery. In the ensuing shoot-out, 18 rounds were exchanged. The salesman managed to run into his house, and hid in the bathroom with his wife and two children. The escort shot two robbers, who were carried from the scene by five male and two female accomplices.

As usual, the record is clear: Spotting the criminals before they can act is the key to loss prevention and injury prevention. Just being a police officer is not enough for an armed escort. The Jeweler's Security Alliance suggests that all escorts should be former or active members of a professional law enforcement agency *who have an in-depth knowledge of jewelry industry*.

Escorts can be armed, but sheer firepower shouldn't be the only consideration. Escorts should be hired for their experience, knowledge, and ability to spot trouble before it happens. Ideally, there should be at least two escorts, one driving the salesman, and the other in a pursuit vehicle. Additionally, the jeweler/salesperson needs to establish a rapport and game plan with protective personnel in case of an attempted robbery. Keep adequate insurance at all times and consider using armored bonded commercial couriers when possible.

Finally, as with all protective services, the goal is to prevent a robbery before it occurs: Spot the criminal, take appropriate action, and get out of harm's way.

4. Technical Issues — Phone mail raid compromises 27 police detectives

In the September 1999 issue of the *ÆGIS* e-Journal we told and showed you how easy it was to break a phone mail system. It was a chapter and verse on how easy it is to do a "phone mail raid" and how easy it is to prevent a phone mail raid. We used the example of an engineering firm. It appears, however, that police too have some issues.

Steven Boudrias was able to break into the voice-mail system of 27 Montreal Urban Community police detectives. He said the detectives used access codes like 123456, or part of their telephone number

According to the Montreal Gazette, he listened to confidential messages about fraud, harassment and drug investigations. Boudrias was caught because he discovered that an acquaintance was under investigation and gave him warning. As it turned out, the friend was as imprudent as was Boudrias himself, and bragged not only about his knowledge of the investigation, but also about the source of his knowledge.

One of the morals of this tale is that we should be more careful about our various passwords. Actually, for many of us the number of passwords we need to deal with has become something of a problem, particularly on the computer: We have an awful lot of them, and there is a tendency to either write them down or make them something so simple that any fool can figure them out or use one userid and password for everything. An alternative is to use something like the *Password Safe*, available free from Counterpane (<http://www.counterpane.com/passsafe.html>). Password safe allows you to store an encrypted list of things that need userids and passwords. You of course need to remember the password for Password Safe, but you don't have to remember all the passwords stored in it.

We recommend you be sure to back up the password file (as well as all your other important data) and store it offsite.

5. Real Stories from the Field — Satellite technology thief is killed

A designer of electrical devices devised a new, smaller, less expensive antenna for receiving audio and video from satellites. It was — and is — a technological marvel, and worked quite well. Every time it was demonstrated people *ooood* and *aaaahd* about how small it was and how well it worked. This entrepreneur worked for a small company that was always strapped for cash and trying to raise money everywhere it could. If the truth need be known, the owners of the company were/are crooks, and were spending the money on life style and not on development.

Management was a sinkhole for money, and the owners were searching far and wide for as much money as could be found. In their search they met a fellow who said he could get tons of money from Latin America. His first stop was to Columbia to see some friends of the family who would fund up to 1 million dollars if the project worked. The money finder took a prototype of the antenna to Columbia and set it up. It didn't work at all.

He called back to the office in the US and asked what the problem was. The owners had no idea, and were in a panic about the antenna: Had it broken, was it set up properly, etc.... They finally called the entrepreneur who designed the antenna. He patiently explained that "The antenna will not work that far south. It was tuned to one satellite, and the footprint of that satellite was western North America and that was it. It didn't even matter if they could see the satellite. The satellite and its signal weren't pointed at Latin America." The money raiser never returned from Columbia and was never heard from again.

Several months later the owners of the company received a message never to come to Columbia, and never to try to steal or defraud anyone again. The owners of the company were lucky: they eventually just went to jail in the US. The money raiser is dead.

And the designer? He has found work with several more-reputable firms as a consulting engineer.

6. Book and Product Reviews

Password Recovery Tool Kit

AccessData

<http://www.accessdata.com/> 1-801-377-5410

This is an excellent software program for password recovery for DOS, NT and NETWare applications. This software is an absolute must for any person even thinking of working in computer investigations. So many crimes today are committed not necessarily with the computer as a criminal tool but rather as a repository for (as a tool for processing) the records of the proceeds and activities. These records and activities are protected by passwords. This software tool was able to crack just every common commercial application we used it on. The harder the password, the longer it took, but at no time were kept waiting very long at all.

We also spoke to several members of the law enforcement community who use the software on a regular basis to help reconstruct the computer records of criminal activity. They consider it a valuable tool and couldn't easily do the work they do without AccessData Password Recovery Tool Kit.

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