

HOW TO EXPOSE HIDDEN ASSETS



It is our experience most people want a just and equitable divorce settlement. This may be what you want. Unfortunately, in some cases some people do not play by the rules and may have planned their separation and divorce in advance and hid money, real estate, cars, and other things from their partner.

On this page we want to give you some of the tools that can help you fight back and find what has been hidden.

It is impossible to include all the possible leads that can expose hidden assets on this page. So, we have included some of the more

obvious ones. If you need assistance, we can help. We understand business, trusts, taxation, accounting records and the court process may be foreign to you, so we have done our best to try and explain in simple terms.

1. Take time to reflect on things that your partner may have said or done that may indicate where assets may be hidden. Perhaps, they may have attended a bank at some stage that you do not regularly do business with or you may have seen documents revealing other business interests they may have been involved in.
2. If your partner owns a company, you can subpoena the financial records of the company. Carefully scrutinise the profit and loss statement and the balance sheet of the company. Things that you should be looking for:
 - A. Any unusual or excessive expenses. These expenses may not be legitimate and paid to people who did not provide the service.
 - B. Loans to the business from a third party. Any loan will be taken from the value of the business. So, a loan should be investigated to see if it is legitimate.
 - C. Services provided by a service company. Often, businesses as part of their tax minimisation strategy will have a service company that they own and charge a service fee to the company. Your partner may be a shareholder of this service company and you are not.

Scrutinising accounting records can be difficult and may expose complex company structures. Sometimes, a suspicious entry may involve issuing further subpoenas to third parties to follow these leads. Engaging a forensic accountant skilled in these matters can often prove invaluable.

3. Subpoena tax returns of your partner's company and individual tax returns. Carefully scrutinise these records looking for anomalies between company accounting records and the tax records for the company and your partner.
4. Conduct an ASIC & AFSA personal search, looking for shareholdings and directorship in any company in Australia. This search can be conducted through a search company such as InforTrak. This search includes information from the Australian Securities and Investment Commission (ASIC) on current and historical directorships, shareholdings, disqualifications, and bankruptcies, as well as searching for personal bankruptcies from the Australian Financial Security Authority (AFSA). At the time of writing this article the cost of this report is \$109.95.

These searches may reveal additional companies that your partner may have a financial interest in. They may also reveal whether your partner controls a trust. This trust may be the place where the assets are hidden.

5. Conduct a National Property Ownership Search. This search allows you to search for properties owned by an individual or company throughout Australia. As opposed to manually conducting this search in each state, using InfoTrack you can request a single National Search that captures all properties owned. At the time of writing this article the normal turnaround time was 1 -2 hours.
6. Conduct a property leasehold search which will identify properties that are being used by your partner. This search may lead to discovering other businesses and business interests that your partner is involved in. This is also done through the land titles office in the state which you are in and efficiently through a service provider such as InfoTrack. The cost is modest at about \$45 per result and the turnaround is about 1-2 hours.
7. Conduct a brokerage account search to look for shares or bonds owned by your partner or the company that they own. This is done by tracking the money paid from the partner's bank or credit card accounts. If the partner does not volunteer the information, then these may be subpoenaed once proceedings are commenced. Sometimes private investigators are used effectively for that purpose.
8. Conduct a bank account search to identify all relevant bank accounts. Often the trail of spending will lead us to these accounts. However, in some cases private investigators are used and if all else fails, proceedings are specifically commenced for this purpose enabling the issue of subpoenas to all known banks.

There is an obligation on the partner to divulge any bank account details held and if it is withheld only to be detected once the matter is finalised, then the aggrieved party may reopen the matter and the defaulting party is most likely to be penalised by way of a costs order.

9. Other things you need to be alert to when analysing the accounting documents, you receive under subpoena and through the searches you carry out:

- Purchases of art
- Purchases of jewellery
- Large/regular cash withdrawals
- Undeclared income
- Advance payments of taxation
- Advance payments to creditors
- Fake debts and debtors
- Transfer of money to accounts in the name of a child of theirs or a girlfriend/boyfriend

It would be an honour to help you discover assets that your partner may have hidden and to fight for you so that you get justice and all that you are entitled to.

For further advice or to book an appointment please ring CK Lawyers on 9687 6000.