

Hidden assets in a divorce may be just clicks away

By Patricia Barrett, CFP, CDFA

Troubled couples sometimes try to hide assets from each other, whether to fund extramarital affairs or keep from sharing them in a divorce. Thanks to technology used in electronic and online discovery, however, it's a lot easier to uncover this activity during a divorce.

Sneaky spouses may think they are flying under the radar by making business deals or stashing funds using online accounts, but lawyers and forensic experts are employing new strategies and tools of their own to uncover such deeds. Once relegated to sifting through files of paper records to find irregularities during discovery, they're now using advanced tools to analyze thousands of digital bank statements, credit card bills and other similar files in a blink of an eye.

"In the past a paper trail might be hidden by a second set of books or the shredding of documents, the trail left by files on a computer today is etched onto a hard drive somewhere, just waiting to be discovered," says Ken Altshuler, president of the American Academy of Matrimonial Lawyers.

Spouses who think they're being clever forget one thing: electronic and online activity leaves traces. Experts say many people believe they have permanently deleted an email, Facebook post, file or other communication, when they haven't.

Often, uncovering mischief or lies just takes basic electronic detective work. One forensic accountant told of a client who asked her husband, from whom she was getting divorced, if he'd get a pension from his company. The husband said that he wasn't sure. A quick search on the company website and the accountant discovered the husband was eligible for a large pension, something he had hidden from his spouse for more than 14 years. Free public databases, such as those tracking real estate deals, often provide information on lying spouses.

By reviewing text messages on smartphones and tablets, experts are finding unusual activity via "find my phone/device" apps or software that pinpoint the location of the devices using GPS.

Spouses are also doing basic detective work themselves by browsing online social network sites, and the history of the family computer, where they are finding things like visits to bank websites where the couple doesn't have an account. Many online searches on Google, LinkedIn and Facebook are legal. But hacking into a smartphone or secretly installing GPS on a spouse's car, to installing keystroke monitors on someone's computer are potentially illegal.

Depending on the state and the details surrounding how the data is acquired, it may be illegal for spouses to use hacking or tracking methods to find secret information on each other. In addition, sometimes the illegally gotten data is inadmissible in court. But the law is still evolving, and there are still gray areas about what practices are acceptable.

Even if spouses can't use the information in court, lawyers say, the knowledge empowers them in negotiations. And once they know about the assets, they sometimes find legal ways to ferret out the same information.

Two recent surveys tell the tale on the financial mischief of American couples. According to the National Endowment for Financial Education, 31% of U.S. adults who combined assets with a spouse or partner say they have been deceptive about money, and 58% of these adults say they hid cash from their partner or spouse.

The numbers also confirm that technology is playing a growing role in uncovering this activity. In 2010, 81% of the members in the American Academy of Matrimonial Lawyers said they had seen an increase over the past five years in the use of evidence from social-networking sites. This year, 92% said that over the past three years, they have seen an increase in the number of cases using evidence taken from smartphones.