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TRACING SEPARATE PROPERTY IN A FAMILY LAW CASE: FROM AN ACCOUNTANT'S PERSPECTIVE by Cathleen Collinsworth, CDFA™, BVAL

My firm has been involved in many cases of tracing the separate property of an individual spouse throughout a marriage. One such case involved almost two million dollars in deposits over a ten-year period in thirteen different accounts. The scope of the assignment was to show that the community did not have an interest in one particular bank account, regardless of how titled was held.

While this process can seem tedious and overwhelming we have compiled a list of tasks, which make the tracing faster and easier. The following process was followed in resolving the above-mentioned case, and represents the general system used in all cases.

1. Inventory all pertinent documents.
2. Determine what documents are missing and or still needed.
3. Prepared a document request.
4. Schedule each disbursement and each deposit for all related bank accounts.
5. Analyzed each bank account deposit by deposit to determine the source of funds.
6. Determine is any deposits are transfers between bank accounts.
7. Analyze each disbursement to determine if it was a transfer between accounts.
8. Whenever a direct tracing is not possible, you have to look at all documents and possibly find a corresponding date and amount.
9. Once all bank accounts had been analyzed
 - Prepare a summary of the bank activity showing
 - Total deposit and withdrawals
 - Identify origin of non-transferred funds
 - Identify where non-transferred funds were spent
10. Test your findings
 - Prepare a schedule of the community bank account
 - Schedule community income
 - Schedule community living expenses
 - Schedule other disbursements

Once all of these tasks are completed, step back and look at the work and ask, "Does this make sense?" When I reviewed my work, looking at the total traceable funds and compared it to the community standard of living, I was able to show the funds were not community.

While you will need to determine which records are applicable for your individual case, this basic process has been extremely successful in tracing separate property.

4000 Barranca Parkway, Suite 250 Irvine, CA 92604 (949) 262-3692 (949) 262-3693
29737 New Hub Drive, Suite 102 Menifee, CA 92586 (951) 679-8940 (951) 679-8986 (fax)

Toll free (888) 679-8940 | www.cccdfa.com | Cathleen@cccdfa.com