

WHY IT IS CRITICAL TO CONDUCT ASSET SEARCHES ASIDE FROM BANK ACCOUNT SEARCHES.

On November 12, 1999, President Clinton signed the “Financial Services Modernization Act” into law, which made conducting bank account searches by asset search companies impermissible and a federal crime as you could no longer use false pretenses to obtain bank account information from either banks or bank customers, which is how bank account searches are conducted (and don’t let anyone tell you otherwise). Please visit www.assetsearchesplus.com(Leanne put the link to our blog and primary bank account search article here) for a detailed description of the Act and certain limited exemptions.

The Board of Bar Overseers followed suit and said that any attorney who has a bank account search conducted on their behalf or has their client conduct a bank account search, will be vicariously liable for the Federal violations, and the applicable sanctions of the Boards. Then various Attorneys’ General offices throughout the United States also began filing complaints against asset search companies and their owners, individually, for invasion of privacy and unfair and deceptive business practices, and obtained large judgments across the country against them.

So guess what? No bank account searches can be conducted. Yes there are asset search companies that advertise that they can conduct bank account searches, but they are running a scam. Confront them with the above information and then listen for the dial tone. As a side note and from a practical standpoint, even if bank account searches were permissible, they are almost physically impossible to conduct now with all the new banking regulations and security protocol that has been put into place since 911 so don’t waste your time, money or expose yourself to liability for trying.

That leads us to the important question, if I can’t conduct bank account searches, should I even bother to spend my client’s money and conduct an asset search?

The short answer is “absolutely.” Even though you can’t locate bank accounts, an asset search can identify all other assets as well as liabilities. Assets that can be identified include, but are not limited to, real estate, deed transfers, automobiles, trucks, boats, watercraft, planes, trademarks, professional licenses and so forth. Asset searches also identify liabilities that help the attorney and client make a decision as to whether to proceed against the defendant subject and spend good money on bad. These liabilities include Federal and State tax liens, bankruptcies, liens and judgments including Uniform Commercial Code liens and other lawsuits.

An attorney, fiduciary, executor or personal representative has an obligation to satisfy their due diligence on behalf of their clients or subject in a number of circumstances. For example, if you are a personal injury attorney and your injured client has damages that may exceed the available insurance coverage, you have an obligation to determine the nature of the defendant’s assets to reach beyond the insurance and reach and apply the assets for the benefit of your client and you as well. Failure to do so or at least suggest to the client that they conduct the search could be a cause to put your malpractice carrier on notice. For as little as \$ 185.00 per subject, a nationwide asset search can be conducted

through a reputable company such as www.assetsearchesplus.com, for example, and the turnaround time is usually one to two days.

Asset searches also make an excellent discovery tool in a divorce to verify probate and family court financial statements or to discover entities that may be associated with your subject that may be holding assets such as trusts, limited partnerships or other corporate entities. The information contained therein also gives the attorney inside information to the subject and their assets for purposes of preparing interrogatories, production of documents requests, request for admissions and for use in a deposition or hearing.

A fiduciary or personal representative, executor or executrix, will most certainly want to conduct an asset search to satisfy their own due diligence to determine the nature of the decedent's estate and the nature of any liabilities that may be present, before the final accounting is filed.

Creditors, collection agencies and in house corporate counsel who want to collect on outstanding debt need to start the process by conducting an asset search to not only determine the nature of debtor's assets but also determine the nature of the debtor's liabilities before they start spending thousands of dollars of their client's money during the collection process.

Likewise, before buying or merging with a new business or hiring a key employee, it is always a good idea to conduct an asset search on an individual or corporate entity to properly determine the stability, assets, debt and other liabilities of the subject.

Choosing the Right Asset Search Company

Finally, when looking to conduct an asset search, it is important to carefully choose a qualified asset search company to assist you. The internet has become second nature for the majority, making it easy for someone to create a website that could potentially deceive you or your client and provide invaluable information. Therefore, it is important to research the company that you are using to make sure it will give you the results you are seeking.

The time that a company has been in business can tell you a lot about their experience. More likely than not, a company that has been in business for ten years or more will have already learned the do's and don'ts regarding how the business functions, as opposed to a company that has just started. You should be sure to ask any potential asset search provider this question.

It is also important to choose a company that is knowledgeable in more than just providing the results, but giving you advice on how to interpret and implement them. Companies with attorneys on board can give you a basic roadmap as to how to go about using the report that you are given, whether it be to satisfy a judgment, recover unpaid child support or validate a party's financial statement.

Convenience is another key point to consider. A company with an easy to use website, helpful customer service, and a short turnaround time is beneficial when trying to get results quickly. They should be able to accommodate you if you do not have access to a computer.

Finally, you should ask yourself these questions before choosing an asset search company:

- 1.) Does the company only use “legal” and reliable sources and methods to conduct their searches?
- 2.) Do they stand behind the quality of their work?
- 3.) Does all work remain confidential?
- 4.) Do they provide a professional looking report that you will be eager to read or share with your client?

If the company that you are considering meets these expectations, it is safe to say that you have made a great choice.

For additional information, please contact me at **1(800)290-1012**, or at edamaral@assetsearchesplus.com or www.assetsearchesplus.com.