


Divorce Dissipation and Fraud

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What is fraud?



DEFINED: *fraud includes any intentional or deliberate attempt to deprive another of property or money by guile, deception or other unfair means*

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Principal Types of Fraud

- Misrepresentation of material facts
- Concealment of material facts
- Bribery
- Conflict of Interest
- Theft of money or property
- Theft of trade secrets or intellectual property
- Breach of fiduciary responsibility
- Statutory offenses

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Cressey's hypothesis

Perceived Opportunity

Fraud Triangle

Pressure Rationalization

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Trusted Person

Trusted person could become a *trust* violator

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What is dissipation?


Using marital assets for non-marital purposes

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Dispose of income




- Spend it
- Save it
- Buy assets
- Pay off debts

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Bad behavior



Overspending
Drugs
Health Issues
Gambling
Infidelity


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Circumstantial evidence

- Changes in lifestyle
- Changes in income
- Changes in secrecy



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Hearsay examples

- Talking to friends
- Gossip




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Direct evidence examples



- Bank statements
- Tax returns
- Credit cards
- Computers


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Examining for fraud

- Net Worth method
- Expenditures method
- Bank Statement method
- Lifestyle Analysis method



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"The Money" fork in the road

Money

Spend

1. New Purchases
2. Receipts
3. Credit Card Statements
4. Safe Deposit Box
5. Cash Stash
6. Gift
7. Loan

Save

1. Bank Statements
2. Retirement Contributions
3. Brokerage Statements
4. Real Estate
5. Other Investments

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Fraud Prevention

- Change passwords
- Routinely audit bank accounts
- Alert tax preparer to look for "inconsistencies"
- Examine wire transfer requests and checks
- Read mail carefully
- Background check of all employees
- Install "checks and balances" system

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Financial effect on marital assets

Case study highlighting dissipation

1. Without evidence
2. With evidence

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Case study highlighting dissipation

Lucy and Ricky's Estate

Marital Estate	\$6,500,000
Direct Evidence	\$1,500,000
Marital Estate	<u>\$5,000,000</u> <i>After Dissipation</i>

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Dissipation without evidence

<i>Ricky</i>	<i>Lucy</i>
Marital Estate \$2,500,000	Marital Estate \$2,500,000
Dissipation effect \$0	Dissipation effect \$0
50%	50%

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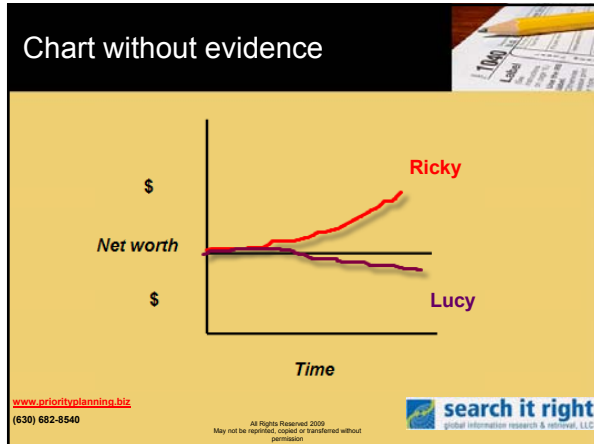
With evidence

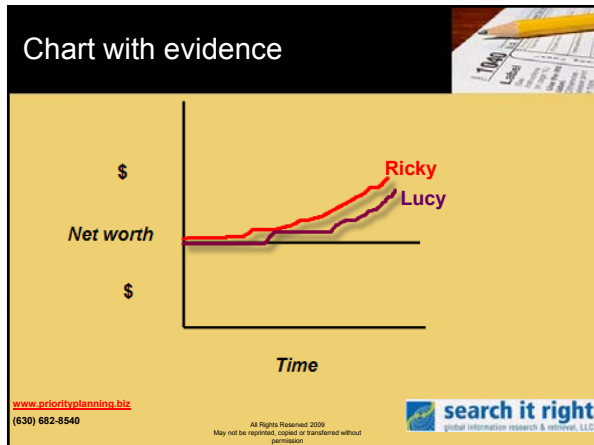
<i>Ricky</i>	<i>Lucy</i>
Marital Estate \$2,500,000	\$2,500,000
Dissipation effect \$ 750,000	+ \$ 750,000
Marital Estate \$ 1,750,000	\$ 3,250,000
35%	65%

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FTC Fraud Schemes

• 1) Identity Theft	250,854
• 2) Debt Collection	144,159
• 3) Internet Services	65,565
• 4) Prizes, Sweepstakes and Lotteries	64,085
• 5) Shop-at-Home and Catalog Sales	60,205
• 6) Imposter Scams	60,158
• 7) Internet Auctions	56,107
• 8) Foreign Money/Counterfeit Check Scams	43,866
• 9) Telephone and Mobile Services	37,388
• 10) Credit Cards	33,258

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Internet Crime Report

• 1) Non-delivery payment/merchandise	14.4%
• 2) FBI-related scams	13.2%
• 3) Identity theft	9.8%
• 4) Computer crimes	9.1%
• 5) Miscellaneous fraud	8.6%
• 6) Advance fee fraud	7.6%
• 7) Spam	6.9%
• 8) Auction fraud	5.9%
• 9) Credit Card fraud	5.3%
• 10) Overpayment fraud	5.3%

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Five Areas of Concern of Successful Families

- 1) Preservation of wealth
- 2) Mitigation of income taxes
- 3) Taking care of heirs
- 4) Asset protection strategies
- 5) Giving your wealth away effectively



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