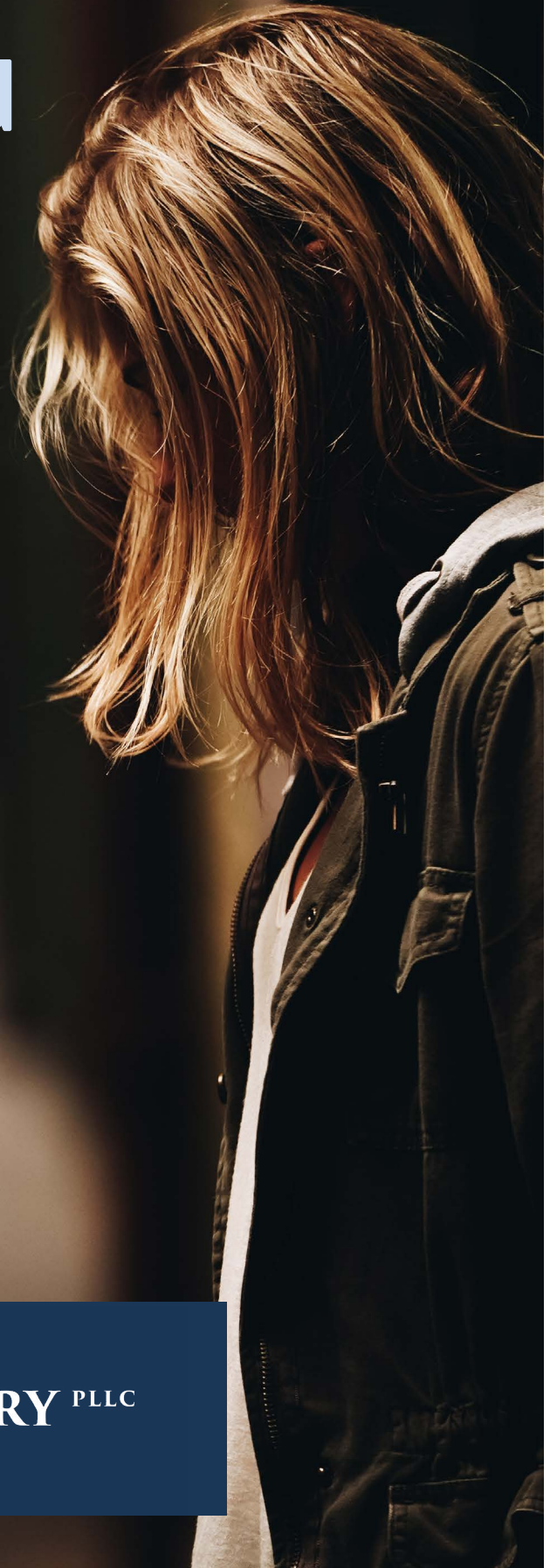


Divorce-Related Deceptions

What To Watch Out For



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An unfortunate truth is that divorce can be messy. Emotions on both sides are usually running high, and it is not uncommon for spouses to become angry and vindictive.

It is not at all unusual, in fact, for people to act in a very uncharacteristic and unexpected way during a divorce. Further, it is not unheard of for a spouse to become so hostile and resentful that they attempt to retaliate against the other spouse.

Of course, people hope for a smooth, amicable divorce that moves along as quickly as possible. We do all that we can for our clients to help ensure that outcome.

It's still a wise measure to keep an eye out for these common behaviors that vindictive spouses may take leading up to and in the midst of divorce proceedings.

1. FINANCIAL FALSEHOODS

Asset hiding is one of the most common deceptive activities that spouses engage in during a divorce. It may seem that it would be difficult to hide assets from a spouse, but there are actually many ways to do so. These include, but aren't limited to, hiding money in offshore accounts, giving interest-free loans to family members, friends, or other trusted acquaintances, or hiding money in trusts, just to name a few methods. Here is some explanation as to the more common methods of hiding assets can be helpful for those who want to keep a close eye on their finances during the divorce process:

UNDERVALUING BUSINESS INTERESTS

Anyone with business ownership interests should be particularly wary of this. For example, if your spouse is part owner in a company, they may draw an actual salary that is somewhat modest. However, it is not the salary alone that reflects the entirety of the business interest. In fact, when considering stocks held and the entirety of the ownership interest, the spouse's financial stake in the business may be much higher. Be wary of a spouse who may seek to undervalue their ownership interest during divorce proceedings, or you may miss out on the share of the money that is rightfully yours.

HIDING MONEY IN OFFSHORE ACCOUNTS

For the most part, hiding money in offshore accounts is a privilege of the very wealthy. If you and your spouse live a middle-class lifestyle, this may be highly unlikely, though it is always best to be aware of the possibility. Hiding money in offshore asset protection trusts (OAPT's) allows the owner of the trust to name him/herself as a beneficiary. This allows the individual to access and use the funds under the protection of trust-friendly foreign laws that do not recognize the American concept of a fraudulent transfer. If you think your spouse has the means and ability to hide assets in an offshore fund, then you should make sure to stay aware of any travel abroad your spouse makes to well-known tax havens, and to carefully check tax forms which require disclosure of offshore deposits.



SNEAKY INVESTMENTS

Some spouses will also seek to hide funds in actual investment accounts, while fully intending to remove the funds after the divorce is finalized. For example, some families have 529 accounts to save for their children's college educations. These plans are structured so that the parents, who are the account holders, can deposit money, but can also withdraw it at any time, subject to tax penalties. Some spouses will deposit as much money as they can into these accounts with the intention of withdrawing the money later, even though they will argue during divorce proceedings that the money is the property of the child, and not the parent. Some spouses take similar actions by overpaying into their pensions at work, with the intent of withdrawing the money again later after the divorce has been finalized.

HIDDEN INCOME

As most people contemplating a divorce know, child support and alimony obligations are calculated based on income. In some cases, spouses can dishonestly attempt to reduce their income in order to pay less support and/or alimony. This is often accomplished when the spouse has a close relationship with his or her boss, and is able to request that some of the income be withheld during the divorce proceedings. It is not unheard of for those spouses to ask that the withheld portion of their income be diverted into a savings account that their soon-to-be ex is unaware of. This is a common trick for those spouses who are in sales, and who earn commissions, as they may not have a fixed income, but rather one that fluctuates depending on performance and other factors. Because the income changes, the spouse hiding the money assumes that the other spouse will simply assume that less was earned. While this method of hiding income is more difficult to detect if your spouse works for a large company at a fixed salary, if he or she works for a small company and has a close relationship with his or her boss, this is something you should be cautious about.

2. CHILD-CENTERED DECEPTIONS

Parents should always have the best interests of their children at heart, and children should never be used as pawns in a bitter divorce battle. However this is simply not always the case. If you are beginning the divorce process and have children, here are some important red flags to look for:

VOLUNTARY UNDEREMPLOYMENT

Voluntary unemployment is the act of intentionally reducing one's income in order to reduce or avoid child support and/or alimony obligations. Upon realizing that courts calculate child support and alimony obligations on the basis of income, some spouses will voluntarily change their schedule, take fewer hours, refuse commissions, or otherwise take actions to reduce their income for the purpose of making it appear that they earn less than they actually do. While this is extremely unfortunate as it hurts the children more than anyone else, it unfortunately happens often. In these situations, it will be the responsibility of the judge to determine the spouse's real motivation for such a drastic change in earnings. Meantime, if you believe your former spouse is manipulating their income intentionally, be sure to contact an attorney immediately.

USING CHILDREN AS PAWNS IN AN ADULT'S GAME

It is terribly unfortunate that during divorce proceedings, spouses can get so caught up in playing games that they fail to act in the best interests of their children. Some spouses refuse to allow the other spouse time with their children to punish the other spouse for behaviors that have angered them. Other parents actually instruct their children to lie on the stand during court proceedings to determine custody. In other situations, spouses will lie about one another, and accuse each other of domestic violence or misbehavior in any other number of ways in order to obtain custody. These behaviors are never acceptable under any circumstances. In fact, spouses who act in these ways can find themselves subject to criminal charges under certain circumstances, and courts frown on such behavior. If your spouse has taken any of these actions, or is using your own children against you in any way, contact your attorney immediately.

3. WITHHOLDING RESOURCES

Unfortunately, another fairly common tactic is the concept of starving a spouse by withholding resources. The term starving, while sounding extreme, simply refers to one spouse cutting off the other spouse's financial access. These tactics could include emptying the joint bank account, removing the other spouse from a joint credit card, refusing to pay bills, cutting off utilities, and other similar behaviors. This tactic can be particularly harmful to a stay-at-home spouse, or to a spouse that works only part-time. If you find yourself in this situation, it can be extremely difficult. When your case eventually makes its way to a courtroom, spousal starving tactics will almost always be looked upon unfavorably by a judge. Until then, however, it can make life very difficult. To avoid finding yourself in this situation if you are considering a divorce, it can be a wise decision to open your own personal credit card that your spouse does not have access to, withdraw some cash in the event that you may need it, or even open a separate account that your is unable to touch.

4. “CONFLICTING OUT” ATTORNEYS

In many counties and towns across the country, especially in smaller communities, there are usually only a handful of excellent divorce attorneys. Believe it or not, some spouses will make appointments with almost all of them, and spend an hour or so during the course of those appointments sharing confidential information. Once someone shares enough information during a consultation, an attorney-client relationship is established. At that point, the attorney cannot represent the other spouse because a conflict of interest exists. Avoid this problem by contacting the attorney of your choice at the first sign of marital trouble. Ensure that you have knowledgeable, experienced representation as you go through the divorce process. We can provide exactly that.

5. SPOUSAL SPYING

Particularly leading up to and during divorce proceedings, suspicions run high. Unfortunately, many spouses will attempt to find dirt on the other spouse in any number of ways –installing spyware on a computer, hiring a private detective, putting a tracer on a smart phone or computer, recording conversations, placing a GPS tracker on a person’s vehicles, and in any other number of ways. Many of these activities can result in criminal charges under both federal and North Carolina law, and they are ill-advised.

If you are considering spying, you should think twice about doing so, and instead consult with an attorney. On the other side of the coin, because people do act uncharacteristically during a divorce, it is possible that your spouse could attempt to spy on you, even if you aren’t expecting it. As a result, it can be wise to check your personal device regularly for the presence of any spyware, and be cautious about any information you divulge on shared computers, phones, or tablets.

NEXT STEPS

As the common saying goes, knowing is half the battle. If you know what to watch for, and what preventative measures to take to protect your assets, your children, and your peace of mind, your divorce, and the process of starting anew afterward will go more smoothly. We’re here to help you handle your divorce proceedings effectively and to reassure you that you aren’t going through this alone. We welcome the opportunity to put our knowledge and experience to work for you. Give us a call today.

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