



ASSET SEARCHES

RFS asset searches have resulted in recoveries of millions of dollars, and shrewd discoveries have helped attorneys avoid pyrrhic victories against defendants lacking assets to satisfy a judgment.

The Problem

Not only are post-judgment court procedures expensive, they are often ineffective. Common sense underscores the fact that debtors who have not paid a lawful judgment are not likely to testify truthfully on the whereabouts of hidden assets. Even if the answers obtained in response to judicial process are truthful when given, debtors often move the assets before the creditor can attach them through court procedures.

Businesses are understandably reluctant to file an expensive lawsuit or claim seeking a significant recovery if they do not know whether the defendant has sufficient assets with which to pay a judgment. A professionally conducted asset search can answer that question as well as provide a benchmark against which to compare the defendants' post-judgment balance sheet.

Assets searches are essential when considering a settlement offer, following a money trail during an internal integrity investigation, or in due diligence investigations.

The RFS Solution

RFS locates and identifies assets that other investigators miss. As one Debtor told his attorney, "That guy does a better job of collecting our receivables than we do!"

RFS has developed a methodology for locating assets worldwide by blending the most advanced investigative strategies with expertise on how legitimate business transactions would be structured. RFS, though aggressive, will not risk disrupting your lawsuit by violating federal or state laws.

RFS conducts asset searches in stages. In general, we begin our investigation by searching numerous proprietary databases. Our skill at uncovering irregularities helps us look at the gathered facts and find the loose thread with which to begin to unravel an illegitimate scheme. We then analyze our findings, and prepare an in-depth initial Report which includes recommendations for possible further inquiry.

Throughout the process we focus on obtaining admissible evidence while protecting work product from disclosure. We continually confer with you to assure that our results are providing the basis for the next step. Never simply a 'data dump' from a single proprietary database, our Report provides actionable analysis that serves as a basis for seizing assets.

Illustrations

- ***Piercing the Corporate Veil.*** Larry testified as an expert witness in Federal court on behalf of a secured lender. RFS proved that the defendant was engaged in running a fraudulent enterprise stretching across the U.S. and spilling over international boundaries. The defendant attempted to avoid liability by simply dividing his enterprise into continuously morphing entities that he incorporated in several states and offshore. Our investigation and testimony was relied upon to ‘pierce the corporate veil’ as well as to prove fraud. The Court found that the defendant, rather than the formal business entities he hid behind, was operating the enterprise. Moreover, the court found that this enterprise was being conducted to carry on a fraud. The court awarded a \$2.5 million judgment including punitive damages. Based on the testimony in the civil case, the defendant was criminally charged, pled guilty, and was sentenced to nine years in prison.
- ***At the Closing.*** RFS located the former business partner of the Debtor. Under pressure, the former business partner disclosed that the debtor was about to sell a substantial asset. From a state regulatory authority, RFS was able to identify the counsel for the potential buyer. The buyer’s counsel disclosed when and where the closing would take place. A restraining order was served upon the debtor, leading to a \$1.3 million recovery at the closing table.
- ***Inferring Assets.*** RFS investigators are experts at inferring assets from income or cash flow statements. RFS came into legal possession of a torn, but not shredded, draft income tax return of the Debtor. Using that document, along with a financial statement of the Debtor obtained from his former spouse, RFS was able to infer that the Debtor was selling very substantial assets on the ‘installment sale basis.’ RFS tracked down the buyer and the accounts payable to the Debtor was seized.
- ***Real Estate.*** Rarely, is an asset search for real estate successful when based on the Debtor's own name. Occasionally, RFS locates an unencumbered, valuable property in a distant state. More often RFS must track down trusts or nominees, or expose schemes. A successful investigation that results in the identification of valuable real estate must usually be conducted by an investigator with substantial financial, as well as, investigative experience. For example, RFS found that a Debtor had been confusing other creditors by leaving a record of mortgages against his property even though the underlying loan had been repaid. Often RFS is called upon to gather evidence to support a ruling that real estate is being held in constructive trust for the Debtor. An eagle-eyed RFS investigator found the name of the Debtor interlineated in pen on a real estate document. The debtor's name had never been indexed in the county records.
- ***Defendant's Viability.*** A company was considering bringing an action against its accounting firm. There had been some reports that the accounting firm was in serious financial difficulty. The company did not wish to throw good money after bad, yet it did not simply want to walk away from a seven figure claim on the basis of rumors. RFS was able to track down attorneys who had already brought litigation against the accounting firm. After cross checking with several sources that actually had possession of the financial documents, RFS was able to successfully predict that the accounting firm would, indeed, file for bankruptcy in the near future.