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# DIVORCE MAGAZINE

## Cover Your Liabilities (And Your Assets, Too)

By Stacy D. Phillips

Whether you're legally separating or filing for divorce it's extremely important that you don't allow your emotions to get the best of you—it's important that you keep a level head and make certain your financial affairs are in order.

One of the most common mistakes I see many of my clients make is that they are so preoccupied with their feelings (and for good reason!) that they can't step aside and take stock of their finances. However, what I try to impress upon my clients is that the financial disasters they create during and after a marital dissolution could impact them for years to come.

The following are a list of some of the more important considerations you may want to think about should you find yourself in the breakup of a relationship:

- 1. Provide your attorney with a list of assets and liabilities you are aware of.** Include everything: Not just the house, the car, and the furniture, but credit card debt, what you owe the bank, the IRS, and any contracts you've entered into, even those that are easy to overlook like the monthly agreement to pay the pool man. After making this list, and after turning it over to your attorney, take action on your own. What I mean by that is cancel all credit cards and open new ones in your name only. Before you cancel a credit card used by your spouse, warn him or her and help that spouse get new credit cards in his or her name alone. Write your creditors letters as back up, don't just make these arrangements by phone. You want everything in writing. There are clear and long lasting benefits only documented records can provide. When you confer with your attorney, insist that your property settlement agreement calls for the payoff of all debts. Even if your ex says he or she will pay off the Mastercard balance as a part of the settlement agreement, don't agree to that, for third party creditors can still hold you liable. If the debt is a joint debt belonging to you and your spouse, the third party creditor is not obligated to chase only your spouse for payment regardless of what your divorce decree states. It's generally better to sell the house, for instance, and use the proceeds to pay off all debts. It not only provides you with a clean start, it also affords you tremendous peace of mind knowing no one can come after you to collect money. Don't forget anything like the phone company and all other utilities, either. I find that people who move to a condo and leave the house to their former spouse often forget to have their name taken off of the utility bills. If your ex starts calling Brazil and doesn't pay the phone bill, guess who's still on the hook? And under the new bankruptcy laws, if you haven't severed ties appropriately, you may still be liable for your spouse's debts in the event he or she files a Chapter 7 action, too.



PHILLIPS LERNER LAUZON & JAMRA LLP

2029 Century Park East, Suite 1200 | Los Angeles, CA 90067 | Phone: 310.277.7117 | Fax: 310.286.9182 | plljlaw.com

2. **Make certain any stocks and bonds you are awarded are reissued in your name.** This often takes lots of paperwork and tedious follow through but its well worth it in the long run. Also make sure you have a new broker (or money manager) or one that is not also working for your ex. Though some brokers can be mutual and keep relationships with both parties even after the divorce, I find it's better to have a broker (or money manager) who is strictly looking after your interests!
3. **If you're keeping any outside service professionals on call—the pool man, the housecleaning service, the gardener—make sure they're under contract to you and that they are not owed anything under your old arrangement with them.** If your ex continues to retain the services of the pool man, for example, and this pool man is still owed several hundred dollars under your old contract, you too will be forced to pay it. So, the message is: get a fresh start.
4. **Re-do your will and living trust.** Hire a new and an independent Estate Planning attorney to draft it. This document is one that is far too often overlooked but could be one of the most important documents you update or redo. After all, you wouldn't want your heirs to suffer, especially your children from a previous marriage.
5. **Hire a new accountant/business manager to make certain you are financially sound.** You don't want the same person who was looking out for your spouse since that person might not be as objective and also be torn between his allegiance toward you and your former spouse. You want to assure that your financial matters are very private and that the person you choose to look after them is your sole advocate.
6. **If you're the spouse who was not that involved with the financial matters of your marriage, you can always contact an independent credit source to determine what debts are outstanding—debts that perhaps you may not have known about.** You can also retain the services of a private investigation service to make certain all your financial bases are covered. When you consider what you're already going through in a marital breakup, and what it's costing you, you certainly don't want more stress and unhappy surprises.

Before you marry again, consult with Estate Planning and bankruptcy attorneys, and an accountant. Each of these professionals can help you plan wisely in the event of another breakup. Something else to consider next time around: A prenuptial agreement!

*A frequent contributor to Divorce Magazine and a member of Divorce Magazine's Advisory Board, Ms. Phillips is a seasoned family law attorney whose practice has run the gamut from high profile clients to representing the interests of women and men in the political arena both on a local and federal level.*

