

ASSET RECOVERY - DOING THINGS THE RIGHT WAY

by Brian Mahany. A recent article in Asset Recovery Watch discussed how lawyers often rush to U.S. courts when trying to recovery monies that are hidden in foreign countries. Unfortunately, in my experience the author of that article is quite correct. Every case is different, but when dealing with fraudsters and foreign assets, trying to get a quick judgment from a local court is often a bad decision. Although a local U.S. court may have jurisdiction to hear the case, American courts have little ability to enforce their judgments on foreign soil.

Many otherwise good litigators rush to the local court hoping to obtain a quick judgment. Often they “win” too. But a judgment is merely a piece of paper. “Winning” to lawyers means getting a judgment; it is simply a court order saying your client is entitled to recover damages. Ask any fraud victim, however, and they will tell you that winning means actually getting paid.

In order to get a judgment, you must prove that the defendant had proper notice of the action. When assets are believed to be hidden offshore, a summons and complaint from a U.S. court is often an invitation for the fraudster to better hide the assets. By the time the case is “won,” there is no money available to pay the judgment.

So what does a victim do, simply throw up his hands and walk

away? File a local suit anyway and hope that money can still be found when the case is over? The answer to both questions is often no.

A competent asset recovery lawyer should always be looking ahead. Like chess, successful asset recovery depends on always thinking many moves ahead.

Most civil suits involve negligence, business disputes and the like. The risk of hiding assets is usually low. But fraud cases, especially international fraud cases, require a different approach

Prior to even filing suit, a thorough and discrete investigation should be undertaken to identify assets. The goal, after all, is recovering your losses, not simply having a piece of paper declaring you to be the “winner.”

Assuming assets can be located, one must carefully analyze the political and legal climate of where the assets are located. Some jurisdictions will readily honor a judgment from a U.S. court, especially in fraud cases. Other jurisdictions will require you to litigate the case all over again. The latter meaning more fees, longer delays and the real possibility that the assets are moved or consumed before the case is done.

Sometimes, the winning strategy is to pursue simultaneous prejudgment attachments throughout the world. Very tricky to arrange but often necessary if there is to be any ultimate recovery. That strategy means extensive but quiet preparation.

On the given day, orders are executed freezing the fraudster's assets in whatever jurisdiction they may be found. Attaching the assets first better assures there will be a waiting pot of gold at the end of the proverbial rainbow.

This makes perfect sense. Unfortunately we often see cases after another lawyer has "won" a judgment but is unable to collect. Many clients simply give up at that point - they have been victimized once by the fraudster then spent tens of thousands of dollars to recover a judgment and are now faced with the prospect of a long, expensive battle to find and seize assets.

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MahanyLaw concentrates on reuniting victims of fraud with their hard earned money or property. Working with a team of former federal agents, forensic accountants and lawyers throughout the world, we can help you recover funds anywhere in the world.

Our only goal is to help individuals and businesses recover what is rightfully theirs. After the case is concluded and the monies recovered, our clients are free to turn over our investigation report to law enforcement authorities.

From our offices in Portland and Milwaukee, we represent people across the United States. Contact Brian Mahany today at 414.704.6731 (direct) or through our website, www.mahanylaw.com. (MahanyLaw is a proud sponsor of the

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