

## **Bank Account Searches are Not Permissible.**

When a couple is going through a divorce; or when executors or personal representatives are trying to determine the assets and liabilities of the deceased; or when an injured party and their attorney are seeking recovery or a judgment against someone as a result of damages caused by an accident; or before a company is to hire a key employee; conducting an asset search is critical. The scope of what a subject owns or owes is what is provided through a comprehensive asset search.

Many attorneys acting on behalf of their clients are seeking to find out the subject's liabilities together with the subjects assets including a complete real estate, personal property and financial picture, including bank accounts. It is not uncommon to see advertisements for bank account searches by asset search companies but be aware!

Any asset search company who claims to be capable of conducting a bank account search is doing so by the use of false pretense. Not only have bank account searches been deemed to be an invasion of privacy, they are also considered to be an unfair and deceptive business practice. More important, it is also a federal crime under the Financial Services Modernization Act, which was signed into law on November 12, 1999 by President Clinton. According to the Act, except for some very limited exceptions, anyone who obtains bank account information through false pretense, or other fraudulent acts, or requests the information when it is known, or should be known, that false pretenses will be used, can be fined or even face criminal liabilities. Moreover, an attorney, who has a bank account search conducted on their behalf, could be held vicariously liable.

Therefore, you should be very cautious when someone is offering to provide bank account searches, especially if you are an attorney requesting the information on behalf of your client. The information obtained on bank accounts is almost always bogus and any information on bank account searches that may be accurate is usually obtained by unlawful means. And as an attorney, you will also be exposed. Choosing an asset search company staffed with experienced attorneys who know the legal boundaries when conducting an asset search is in the best interests of both you and your client.