

Asset Protection Newsletter

JULY 2012 ISSUE

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Welcome to Our July 2012 Asset Protection Newsletter!



How can someone lawsuit-proof their assets?

Let's start with the basics. To lawsuit-proof a client's assets, we would normally use one or more of three basic strategies. The first strategy is to own only exempt assets. The strategy here is to own as many assets as possible that are automatically protected from creditors under federal or state law. A surprising number of assets are automatically exempt or



Important Changes in Florida Law

2010 brought a significant change

immune from creditor seizure. For example, your state law may exempt all or part of your home equity, retirement plans, insurance, annuities, wages and certain personal property. The converse objective is to own few or no assets that are not exempt and self-protected. We will later expand upon this exemption strategy through numerous examples.

The second strategy is to title non-exempt or unprotected assets to one or more protective entities. When you title your assets to one or more protective entities, a judgment creditor cannot seize those assets. We have many different protective entities and arrangements to choose from: co-ownerships, corporations, irrevocable trusts and COPE's (limited partnerships and limited liability companies), as well as numerous international or financial entities. We'll talk about these and other protective entities and strategies throughout this newsletter.

The third strategy is to fully encumber or equity strip your assets. The goal here is to reduce your assets' value to your creditor by mortgaging your exposed assets and protecting the proceeds. We'll also tell you about a number of different ways to accomplish this.

We often combine these strategies. For example, we may title an asset to a protective entity, then equity strip the same asset and invest the proceeds in an exempt asset or safekeep the proceeds in still another protective entity. Most plans involving significant assets combine these three strategies or 'firewalls,' as we call them. The possibilities are endless. And there are other strategies – usually more of a financial nature – that can also be blended into a plan.

Each of the above strategies fall into the category of either transfer-based asset protection or transferring an asset out of a creditor's reach, or transformational asset protection which is transforming the asset into something a creditor couldn't

in Florida law with regard to limited liability companies and creditor protection. In June of 2010, the Florida Supreme Court held in *Olmstead v. Federal Trade Commission* (No. SC08-1009) that a charging order is not the exclusive remedy available to a creditor holding a judgment against the sole member of a Florida single-member limited liability company.

A charging order represents a lien that entitles a judgment creditor to receive distributions from the LLC or a limited partnership, for that matter, in place of the debtor-member. It had been understood, until *Olmstead* that this was the exclusive remedy of a judgment debtor against an LLC membership interest. The *Olmstead* decision changed that but left the issue very vague for practitioners who set up LLCs for clients given that the decision did not clarify whether multi-member LLCs would also be subject to this decision.

The Florida Legislature recognized the uncertainty with which we were all left at *Olmstead* and recently passed new legislation clarifying the breadth of the *Olmstead*. They changed

get or wouldn't want. For example, part of one's salary can be placed into an ERISA-governed plan (401(k), etc.) that is exempt from creditors. Although this involves exemption planning, it also involves transferring cash into an ERISA-governed plan, and is therefore transfer-based protection as well. Another method involves using exposed cash to prepay certain expenses or repay favored creditors provided those creditors aren't 'insiders' under applicable fraudulent transfer or fraudulent conveyance law. For example, one could take exposed cash and use it to pay in advance for a 5-year commercial lease. Such techniques, which results in the right to use an asset – the leased property – which right most creditors wouldn't want, exemplifies transformational asset protection.

Nearly every asset protection strategy relies upon one or more of these three core strategies which independently or simultaneously utilize either a transformational or a transfer-based methodology.

What specific asset protection tools or 'firewalls' do you use in your planning?

We have any number of specific protective firewalls, but we most commonly use these eight 'firewalls:' 1) federal and state exemptions, 2) co-ownerships, 3) corporations, 4) limited partnerships, 5) limited liability companies, 6) domestic trusts, 7) international entities, and 8) debt-shields (equity stripping).

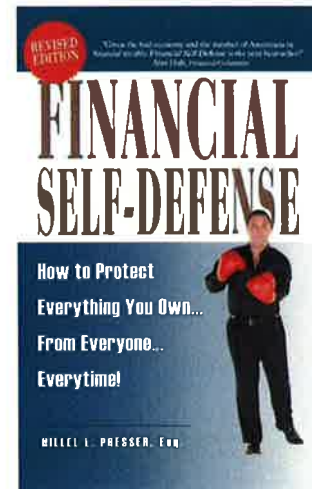
Each specific firewall has its own unique characteristics, strengths and weaknesses, advantages and disadvantages, applications and instances where they would or wouldn't be useful. Think colors on the artist's palette. Some colors are more commonly used than others; however, each is vital to achieve artistic perfection. Still, that perfect portrait depends on their correct application. We'll talk more about each firewall so you can see how it might apply to the various assets.

Can other 'firewalls,' entities or tools also shield assets?

Of course! There are literally hundreds, or even thousands, of variations on the theme. There are many more entities we could discuss, but most entities and strategies, conceptually

F.S. 608.433 to make it clear that the charging order is still the exclusive remedy to a judgment creditor of a member in a multi-member Florida LLC. However, it also clarified that a judgment creditor of a member in a single-member LLC must satisfactorily demonstrate to the court that "distributions under a charging order will not satisfy the judgment within a reasonable time, a charging order is not the sole and exclusive remedy".

For those who do have Florida LLC's, please do not hesitate to contact us with any questions or concerns.



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Contact us today to book a complimentary Preliminary Consultation with a licensed attorney and receive a free copy of Financial Self Defense - Revised Edition or click the image above to purchase your copy on Amazon!

at least, fall within one of these 'firewall' categories. For example, limited liability partnerships and limited liability limited partnerships are variations on the limited partnership. The limited liability company also works in much the same way. Of course, we can't fully discuss every possible firewall. Nor should we get too technical. We only want to discuss the fundamentals or more common tools and strategies. More advanced methodologies may combine legal and financial strategies. These invariably complex arrangements can provide financial as well as protective benefits. Nor is asset protection planning static. We professional asset protection planners constantly invent new strategies and tactics, and as rapidly the collection lawyers try to find ways to overcome our older strategies. Every field is fast changing. So is ours.

The Presser Law Firm, P.A. -- Asset Protection Attorneys

The Presser Law Firm, P.A. represents individuals and businesses in connection with the establishment of comprehensive Asset Protection plans that incorporate both domestic and international components. We help our clients protect themselves from lawyers, creditors, foreclosure deficiencies, former or current spouses, children, relatives, and greedy lawsuit-obsessed citizens. While many people can make money, few know how to protect it. We have been featured in numerous newspapers and magazines, among them Forbes, Sports Illustrated, The Robb Report, The Houston Chronicle, and The Los Angeles Times. We have also appeared on several radio and television stations such as FOX, BRAVO, NBC, ABC, and CBS and have been profiled in the international press in Canada, Germany, Greece, Ireland, and the United Kingdom. We have represented some of today's most well known business owners, celebrities, and professional athletes.

Our Asset Protection Newsletter will show you how to utilize proven strategies to shelter your assets; tools and tactics that we use as Asset Protection Attorneys to successfully shield the wealth of thousands of individuals, families, and companies. It will provide scores of little known strategies, tactics, and Asset Protection secrets. It will give you the straight talk, tell you what really works, what doesn't, and why. It will also help you avoid the



For every 60 minutes you spend making money, spend 60 seconds thinking about how to protect it!



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common mistakes and errors that you may be making right now - mistakes which can undermine your financial security!

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If you know a colleague, friend, family member or anyone that would benefit from this important information, please have them contact us to be added to our newsletter!

Best Wishes,

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