THE ASSERTION OF COMPLETENESS:
UNDISCLOSED AND UNIDENTIFIED ASSETS IN FAMILY LAW

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As a young auditor, I was taught to test transactions for the following assertions: Accuracy, Occurrence, Classification, Cutoff, and Completeness. Testing for Accuracy and Occurrence requires looking at what is on the face of the financial statement and determining whether an item is recorded without error as well as whether the transaction actually took place. Once it has been validated that the transaction actually took place, we can test for Classification and Cutoff ensuring that the transaction was recorded properly and in the proper period. The most difficult assertion to test as an auditor is the assertion of Completeness. This assertion requires not looking at the propriety of what *is* recorded, but instead looking for what *is not* recorded that ought to be. In testing for Completeness, one looks not to the population of items as reported, but rather to an outside population.

Similar to auditors, one of the great challenges facing forensic accountants is testing the assertion of Completeness. Or, in forensic terms, providing a level of assurance that what is represented as one's assets or income is truly the totality of what exists. In assisting Counsel with the division of community property, I am often asked to prepare a community property balance sheet, setting for the parties' community assets and debts. When listing the parties' assets, it is imperative that I consider whether the assets as provided are complete and that there are no undisclosed and/or unidentified assets. A number of years ago I was retained in a case where the opposing forensic accountant had purportedly done extensive testing for unreported sales by looking at a selection of sales invoices and ensuring that cash receipts for such sales invoices were recorded on the books of the Company. Such a test would never uncover sales that were never invoiced. When asked by my attorney what I thought of the opposing forensic accountant's conclusion, my immediate response was that one cannot test for unreported sales by looking at the sales invoices, rather once must look to an outside population, perhaps the relief of inventory, bank deposits, or other sources. Sure enough, despite extensive testing by the opposing forensic accountant, unreported cash sales were later identified by my team.

The Financial Accounting Standards Board ("FASB") defines an asset as an item providing future economic benefit. Focusing on the words economic benefit shifts us from our mindset of considering only items which can be converted to cash as an asset. Over the past several years, I have represented a number of professionals who were partners in a professional partnership. Many of these professionals argued quite strongly that since their partnership interest cannot be sold, it has no value. However, the fact that an item cannot be sold does not mean that it is not an asset. In the example of the professional in a partnership of law, medicine, or the like, even though his/her interest cannot be sold if it has the ability to provide future benefits in excess of "reasonable compensation", that partnership interest is an asset. In the case of a professional partner in a large law firm, very often, an asset which may not be disclosed is the partner's share of receivables earned pre-separation, but for which the cash is received after date of separation. While the partner may only be entitled to the cash basis income if he/she were to leave the firm at date of separation, the fact remains that as a result of staying, the partner is subsequently deriving the economic benefit which was earned pre-separation.

Similarly, a stock option which may never be exercised, also is an asset due to the future economic benefit that this may provide.

I recently had a case in my office where a spouse was paid out several hundred thousands of dollars as accrued vacation pay. Looking back to the definition of an asset, clearly the accrued vacation should provide future economic benefit. Yet, how often do we see such an asset disclosed. While I would be hard pressed to think of a Form FL-142 (Schedule of Assets & Debts) that listed accrued vacation as a community asset, I believe it is undisputed that though often such asset may not be material, such benefit is an asset of the community.

When we think of unreported income, the image that comes to mind is the businessman with the wad of cash buried underneath the mattress. Would we view the businessman who failed to disclose the sales that his top salesperson diverted offshore unbeknownst to him in the same manner? Likely not. One scenario represents fraud while the other scenario represents an unknown error. The December 2013 case, in re Marriage of Finby, in which a financial advisor’s book of business was determined to be a community asset, has gotten all forensic accountants specializing in family law thinking, *what additional assets are out there.* Unlike the Feldman case or the Rossi case in which one spouse failed to disclose a significant asset, the Finby case does not deal with willful non-disclosure, but of an asset that one party failed to view as an asset, in this case the value of a financial advisor’s book of business. The take away from in re Marriage of Finby is that when preparing a form FL-142 (Schedule of Assets & Debts) and/or a community property balance sheet, the parties, attorneys, and forensic accountants should be ensuring that they are not omitting assets, either undisclosed or unidentified. No party wants to reach a settlement and/or have a judgment entered by a judge only to have it overturned due to a failure to disclose. With a mindset of looking for the assertion of Completeness and asking the questions about both what is presented and what is not, we can help ensure that there are neither undisclosed (willful) or unidentified (through error) assets when preparing a listing of assets and debts in family law matters.