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Reviewing Records for Fraud

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There are numerous irregularities in financial records that can be the touchstones of financial fraud.

Cancelled checks are memorialized in a statement, but one or both sides of a check is missing from the production.

Cancelled checks show the disposition of funds. Checks show the payee and the endorsement shows the actual recipient, which might differ from the payee, and the account number and recipient's bank. This is the first level of disbursement and guides counsel to the second level (i.e., what the recipient did with the money). Cancelled checks show patterns and the maker might be the purported wrongdoer. A check missing from a continuous sequence is the first sign of fraud in hiding incriminating evidence. If funds were electronically disbursed, the authorization is the equivalent to the paper trail.

Excessive fund transfers, or transfers to "dummy named accounts," but records of those accounts are missing or incomplete and serve no viable purpose.

Although wire transfers are routine, an excessive number of transfers payable to entities that lack any rationale relationship to the operation of a business, that are bunched and inconsistent with prior patterns, or that lack a simple paper trail points to fraudulent activities.

Disbursements for large dollars or even amounts, to non-traditional payees or payees related to the debtor, or for "fees," "commis-

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sions," "services" or "miscellaneous."

Today's accounting software describes receipts and disbursements with the greatest minutiae. Generalized nomenclature of disbursements are contrary to Generally Accepted Accounting Principles ("GAAP"), normal business practices and the parameters established by the accounting software. Large, erratic amounts, or amounts that are inconsistent with prior disbursements or categorized with bland or non-descript titles, represent a pattern and practice of fraud.

Excessive wire, bank or "account to account" transfers.

Few businesses wire funds directly to another account under their control or under the control of their principals, or to an account whose name, title, or identity contravenes the norm of business practices or the pattern or practice of their industry. Excessive wires are a tip-off.

Excessive number of accounts or limited liability companies that lack any business reason or purpose.

Businesses have specified accounts with clear identities deployed for a specific purpose. Businesses are housed in one or more entities, for specific purposes. Entities are expensive to maintain, create inadvertent confusion, and employees must ensure that the right entity is attached to the right business. Excessive entities holding assets of the same coherent business is a key feature of an asset protection strategy or efforts to divert funds, particularly when the extraneous entities bear the same name, locale, and principals and hold closely aligned or related assets.

A transfer or disbursement untethered to accounting entries, reflected by accounting entries such as "suspense" or "miscellaneous," or untethered to traditional source documents, such as invoices, statements, contracts, or notes that are regular, routine, or re-occurring on their face.

GAAP classifies items (money coming or going) as income, expense, asset, or liability. Classifying large dollar items with non-specific terms contravenes GAAP and hides the true recipient. The failure to attach any transaction to routine accounting entries implies fraud.