

Divorce Settlements: Know your Options!

Presented by:

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Diane M. Pearson, CFP[®], PPC[™], CDFA[®] is a Personal Chief Financial Officer (Personal CFO) and Shareholder with Legend Financial Advisors, Inc.[®] and EmergingWealth Investment Management, Inc.

Diane has been selected three times by *Worth* magazine as one of “The Top 250 Wealth Advisors” in the country.

Diane has been selected five consecutive times by *Medical Economics* magazine as one of “The 150 Best Financial Advisors for Doctors in America.”

She has also been selected three times by *Dental Practice Report* as one of “The Best Financial Advisors for Dentists in America.”

Diane has also been previously selected by *Pittsburgh Magazine* three times as one of the Pittsburgh area’s FIVE STAR Wealth Managers, a list that represents the most elite financial advisors in Pittsburgh.

As a Personal CFO and with over 25 years of experience, Diane assists all types of clients with their financial planning and investment needs. Diane specialized expertise includes working with widowed, divorced and retirement-focused individuals.

She is also a managing member of the Smart Divorce Institute, LLC which provides professional, expert guidance, through educational workshops for men and women contemplating, experiencing, and/or emerging from divorce.

Diane has been awarded the Certified Divorce Financial Analyst[™] (CDFA[™]) professional designation. As a CDFA[™], she is qualified to serve as a financial expert on divorce cases, present data to support an argument, and educate clients on the short- and long-term financial implications of different divorce settlement proposals.

Diane is one of the first financial advisors in the country to earn the Professional Plan Consultants[™] (PPC[™]) designation, recognizing her commitment to education and service excellence in the qualified retirement planning industry.

Ms. Pearson is also a member of the second Pittsburgh chapter of the Women’s Presidents Organization (WPO).

Diane has also previously been selected as one of "Pennsylvania's Best 50 Women in Business" by The Pennsylvania Department of Community and Economic Development.

EQUITABLE VERSUS EQUAL

Equitable - dealing fairly and equally with all concerned

**Equal - (1) of the same measure, quantity, amount, or number as another
(2) identical in mathematical value**

NET WORTH STATEMENT AND CASH FLOW ANALYSIS

Assets

Liabilities

Income

Expenses

TYPES OF ASSETS:

Bank accounts

Bonds

Investments

Retirement Plans

Annuities

TYPES OF ASSETS (continued):

Illiquid Assets

Life Insurance

College Savings Accounts

Career Assets

DIVISION OF THE ASSETS

**Community or Marital
Property**

Equitable Distribution

FIND HIDDEN ASSETS

- 1. Denies the asset exists**
- 2. Given to a third person**
- 3. Was lost or dissipated**
- 4. False debt is created**

WHERE TO FIND HIDDEN ASSETS?

- 1. Tax returns**
- 2. Mortgage or a loan applications**
- 3. Employment contracts**
- 4. Security/Brokerage account statements**
- 5. Cancelled checks**
- 6. Savings account passbooks**
- 7. Safe Deposit Boxes**

WHERE TO FIND HIDDEN ASSETS? (Continued)

- 8. Cash transactions or in-kind compensation**
- 9. Children's bank accounts**
- 10. Personal knowledge of spending habits**
- 11. Phony income tax returns**
- 12. Phony loans or debts**
- 13. Friends or other phonies on the payroll**
- 14. Retirement plan abuse**
- 15. Defined Benefit Pension Plans**

BUSINESS - OPTIONS:

One spouse keeps the business

OR

**Both spouses continue to work in
the business**

OR

Sell the business

QUALIFIED RETIREMENT PLANS

Defined Benefit Plan – Pension

- **Final average salary;**
- **Annuity factor based on age at retirement;**
- **Annual average Social Security tax base;**
- **Total number of years of employment at retirement**

QUALIFIED RETIREMENT PLANS

Defined Benefit Plan – Pension

- **Method chosen to receive the payment of voluntary and required contributions;**

OR

- **Whether a pension will be paid to a survivor upon the employee's death.**

QUALIFIED DOMESTIC RELATIONS ORDER (QDRO)

Three methods:

- 1. Present Value or Cash-Out Method**
- 2. Deferred Division or Future Share Method**
- 3. Reserved Jurisdiction**

SAMPLE CASE

Benefit amount \$2,600/month or \$31,200/year at age 65

Current age – 52

Life expectancy - 26.9 years

Present Value (PV) = \$297,758

Present Value as of today = \$148,450

$\frac{\text{Number of years married while working}}{\text{Total \# of years worked until retirement}} = \frac{32}{41}$

Final benefit would pay the employee \$2,600.00 per month:

$\frac{32}{41} \times \$2,600 \text{ divided by } 2 = \$1,014$

UNDERSTAND YOUR RISKS

Death before the spouse gets the whole share of the pension

Do not rely on a sample QDRO form

Complete before signing the divorce decree

Mismanagement of the funds

Company goes out of business

OTHER RETIREMENT PLANS

Defined Contribution Plans includes:

401(k), 403(b), and Profit Sharing Plans

IRAs: Non-Qualified Plans

QUESTIONS

1. Is the only 50/50 the right division?
2. Is one more interested in receiving only cash?
3. Will one take less than 50% if its all in cash?
4. Is one more interested in future security than in present assets?
5. Is one willing to wait for a buy-out of his/her share of the house, business or retirement assets? Is he/she looking for more than 50/50 to compensate for waiting?

QUESTIONS (Continued)

1. **Settle for a “lopsided” agreement to compensate for the larger earnings of one of them now?**
2. **Want to be “made whole”?**
3. **Does one want to be compensated “off the top” for some contribution he/she made to the acquisition of property?**
4. **Is there a possibility that any assets or investments are hidden?**
5. **What is the law?**

CASE STUDY

Fran and Michael were married for 30 years. He stayed home and raised their four children. Fran started her own business and currently makes \$150,000.00 per year. Fran anticipates that the company will continue to grow and will provide income to her during her retirement.

The assets:

House (no mortgage)	\$140,000.00
Fran's Pension	90,000.00
Certificates of Deposit	25,000.00
Fran's Business value	<u>80,000.00</u>
Total	\$335,000.00

OPTION 1

Michael wants the house. Fran states the pension and business is hers. She needs cash for a new business deal and wants the CDs.

	<u>TOTAL</u>	<u>MICHAEL</u>	<u>FRAN</u>
House	\$140,000.00	\$140,000.00	
Pension	90,000.00		90,000.00
CDs	25,000.00		25,000.00
Business value	80,000.00		80,000.00
Total	\$335,000.00	\$140,000.00	\$195,000.00

OPTION 2

	<u>TOTAL</u>	<u>MICHAEL</u>	<u>FRAN</u>
House	\$140,000.00	\$140,000.00	
Pension	90,000.00	45,000.00	\$45,000.00
CD	25,000.00	12,500.00	12,500.00
Business value	80,000.00		80,000.00
Total	\$335,000.00	\$197,500.00	\$137,500.00

MARITAL HOUSE

Sell

Buy Out

Own jointly

MARITAL HOUSE COST BASIS

House was purchased for	\$200,000.00
Sale value	<u>1,000,000.00</u>
Capital Gain	\$800,000.00
Married Capital Gain exclusion	<u>500,000.00</u>
Taxable Capital Gain	\$300,000.00

GIFTING OF PROPERTY

A transfer of property is incident to a divorce is a gift if:

- **Occurs within one year after the divorce OR**
- **Is pursuant to the divorce decree AND**
- **Occurs not more than six years after the divorce.**

GIFTING OF PROPERTY (CONTINUED)

This nonrecognition provision of this gift is very broad. Two exceptions:

Does not apply if one spouse is a nonresident alien and/or

Does not apply to a transfer of services.

GIFTING OF PROPERTY (CONTINUED)

Alimony

Annuities

Depreciable Property

TRANSFER OF QUALIFIED RETIREMENT PLANS

Requires a direct rollover option

**Mandatory 20% federal tax
withholding if not a direct rollover**

**Plan administrators to add the new
rules to the written notice that must
be provided to participants within a
reasonable time before the
distribution**

TRANSFER OF IRAS

Three methods of transferring

1. Change the owner's name
2. Trustee-to-Trustee transfer
3. Rollover

**Each Of These Must Be Completed Within 60
Calendar Days Of The Withdrawal**

DEBTS

Mortgages

Home Equity Line of Credit

Home Equity Loans

Credit Cards

Automobile Loans

Retirement Plan Loans

Life Insurance Loans

CASH FLOW: INCOME AND EXPENSES

Sources of income

What expenses could be reduced?

Create a budget

ATTORNEYS

AND

**CERTIFIED DIVORCE
FINANCIAL ANALYSTS**

QUESTIONS AND ANSWERS



CONTACT US



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