



INTERVIEW QUESTIONS FOR ASSET PROTECTION ATTORNEYS

14 QUESTIONS TO ASK YOUR PROSPECTIVE LAWYER

Written by Howard Rosen, Esq 2019 (link below)

Selecting an *asset protection attorney* can be a daunting task, especially when so many inexperienced attorneys advertise asset protection services. So how can you weed out the bad from the good, the unqualified from the qualified? We have developed this list of fourteen questions that should be asked of every asset protection attorney before they are retained.

(1) HOW LONG HAVE YOU BEEN IMPLEMENTING ASSET PROTECTION PLANS?

Too often an attorney will advertise the number of years he has been admitted to practice law. This can be deceiving, as the attorney may have recently switched his area of practice. Instead, ask how long he has been practicing in the area of asset protection. See if he can point you to his articles or publications that show his years of experience in this specific area.

(2) WILL YOUR FIRM PROVIDE FEDERAL TAX COMPLIANCE GUIDANCE?

Offshore asset protection planning requires a broad knowledge of federal tax law. Look for a firm with extensive experience in tax. Ask if they will guide your CPA in preparing the necessary tax returns.

(3) HOW MANY ASSET PROTECTION STRUCTURES HAVE YOU IMPLEMENTED?

The answer you are looking for is thousands. Think of asset protection like complex surgery. If you needed open heart surgery, you would want the surgeon that has successfully performed the procedure thousands of times.

(4) WHAT PORTION OF YOUR PRACTICE IS DEDICATED TO ASSET PROTECTION PLANNING?

Many estate planning attorneys purport to practice asset protection planning, but inquiry reveals that 90% of their practice is devoted to other matters. You want the attorney that does offshore asset protection all day, every day, 100%.

(5) WHAT IS YOUR RATE OF SUCCESS?

Anything less than 100% should have you concerned. How did the creditor reach the client's assets if the structure was implemented properly?

(6) CAN YOU POINT ME TO THIRD PARTIES THAT CAN RECOMMEND YOUR SERVICES?

Attorneys who focus their practice in offshore asset protection planning work with trust companies, protector companies, financial advisors, and perhaps CPAs, to properly implement the structure. Ask for the contact information for some of those third party professionals, and see if they recommend the attorney. Ask the third party how much experience the attorney has in the field and how many structures he has implemented with them.

(7) DOES YOUR PRACTICE REPRESENT CREDITORS?

An attorney may focus his practice in asset protection structures, but primarily *represent the creditors* seeking to bust up the structures. Make sure the attorney's experience and successes are in implementing structures, not representing creditors or only acting as an expert witness.

(8) WHAT TYPE OF DUE DILIGENCE HAVE YOU CONDUCTED ON THE OFFSHORE TRUSTEE?

Many attorneys select offshore trustees and banks based solely on marketing materials or trade shows. Verify that the attorney has personally met with the trustee, protector, and banks, by visiting their foreign offices (and ask how frequently). Ask about the offshore providers= track record, stability, and managing personnel. If the attorney is not intimately familiar with these companies, you should be concerned.

(9) ARE YOU AN AV PREEMINENT 7 RATED ATTORNEY?

Martindale Hubbell, the international lawyer rating/information organization, facilitates an attorney peer rating program which measures the attorney's level of professionalism and ethics. The highest possible rating is AV Preeminent 7.

(10) HAVE YOU AUTHORED ANY MATERIALS ON ASSET PROTECTION THAT WERE PUBLISHED BY REPUTABLE LEGAL PUBLISHERS?

In the days of the internet and self publishing, many attorneys now call themselves authors. The true test is whether reputable legal publishers have selected the attorney to write on asset protection planning in reference materials to be used by other attorneys and professionals.

(11) HAVE YOU BEEN AN EXPERT SPEAKER, A GUEST LECTURER AT AN EDUCATIONAL INSTITUTION, OR A LAW PROFESSOR, ON THE SUBJECT OF ASSET PROTECTION?

Attorneys respected in the field of asset protection will have been asked to conduct seminars for bar associations or other professional organizations, will have been guest lecturers at

educational institutions, and may have served as a professor or adjunct professor at a law school.

(12) CAN YOU TELL ME THE TOTAL COST OF IMPLEMENTATION DURING MY INITIAL CONSULTATION?

Unlike litigation, the time and costs associated with implementing an asset protection structure are foreseeable for an experienced asset protection attorney, and, therefore, should be determined before you retain the lawyer. Be sure the amount you are quoted includes all legal fees and costs of implementation (such as trustee and protector fees).

Does the fee include continuing consultations so you can have questions answered, or will you be charged at an hourly rate to ask a question? Price can be an important factor for a client, but the success of the planning should be the most important factor. Any amount spent is an amount potentially wasted if the client fails to select the right attorney.

(13) HAVE YOUR STRUCTURES COME UNDER CREDITOR ATTACK? ARE THERE CASES SHOWING THE OUTCOME?

Perhaps the most important factor in selecting an asset protection attorney is the ultimate result. While many experts purport to have drafted dozens, hundreds, or even thousands of *asset protection structures*, those structures may never have been tested by an aggressive creditor. Ask the attorney to discuss cases where his/her structures have withstood an attack, and ask if there are any cases where his/her structures have failed. If an attorney cannot point to successes, they may have implemented fewer structures than they boast, or you may end up being the test case for their type of planning.

(14) WHAT EXPERIENCE DO YOU HAVE WITH YOUR PLANNING BEING CHALLENGED IN THE SELECTED OFFSHORE JURISDICTION?

While some planners may have had their structures tested in the U.S., few have had their planning challenged in the jurisdiction selected to host the structure or the assets. Ask how many times their planning has been attacked in the host jurisdiction, and what were the outcomes.

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