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## 2022 WESTERN REGION CONFERENCE



# Asset Investigations In A Nutshell



Presented By:

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# Lynda Bergh Herring

Owner & Qualified Manager of LJB Investigations, Orange County, CA

Lynda Herring possesses 40 years' experience in the investigation industry. Her initial employment consisted solely of conducting workers' compensation defense cases, specifically interviewing witnesses and collecting physical evidence. Since obtaining her Private Investigator's license in 1996, she expanded her investigation repertoire to include asset searches, child custody, due diligence, pre-employment background, elder abuse, skip tracing / missing persons, personal injury, traffic accidents, and she is passionate about the fight against sex trafficking of children.

Lynda graduated from the Rio Hondo Police Academy, and possesses Bachelor's degrees in Criminal Justice and Psychology, and a Master's degree in Public Administration. She is a contributing author to "Advanced Private Investigation", a training manual that is used throughout the P.I. industry, and in criminal justice courses at several colleges and universities; and is designated by the State of California as a Subject Matter Expert regarding private investigation law. Lynda is a member of multiple private investigation associations, including Intellenet, which is comprised of investigators based around the world, affording her the ability to locate assets in many countries, not just the United States.

She lives in Coto de Caza with her husband and fellow Private Investigator, Scott, and their Spypup, Mannix.



# Scott W. Herring


Owner & Qualified Manager of S.W. Herring International, Orange County, CA

Scott Herring entered the private investigation industry in 1990. He has thirty-two (32) years of industry experience, which began with conducting locate and skip tracing investigations for service of process, and has included witness interviews, undercover operations, surveillance for high profile cases, and celebrity assignments. Additionally, he has helped companies develop and implement standard training practices and training operations curriculum for new hires. Over his career, Scott has held positions from field investigator, field investigator supervisor, to Director of Surveillance Operations overseeing a team of 12 field investigators with a multi-million-dollar investigation company.


In 2004, Scott ventured out to open S.W. Herring International Private Investigations, now located in Orange County, California. Scott has experience and testified in both WCAB and Superior Court matters. Scott continually attends industry related training seminars, webinars, and conferences to keep apprised of new trends, laws, investigative practices, and technology.

Scott is an active member of the Southern California Fraud Investigators Association, and an active member of the Screen Actors Guild. Scott lives in south Orange County with his Private Investigator wife Lynda, and their Spypup, Mannix.


# Reasons For An Asset Search

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- ❖ A common reason for an attorney to order an asset search is to support divorce proceedings. One or both spouses may hide assets to bolster the argument for alimony and other settlements. The collection of child support is another reason to leverage a search for assets.
  - ❖ Estate and probate proceedings rely on asset searches, especially when an individual dies without revealing where everything is hidden. In the same way, debt collectors may institute a search to identify financial resources that may be available to a debtor claiming to be broke.
  - ❖ Businesses and individual investors use asset searches for due diligence before finalizing partnerships, investments, or other contracts. Knowing the financial strength and stability helps avoid a bad business investment.
  - ❖ An asset search is recommended to attorneys considering litigation to discover what collectible assets the potential defendant(s) may possess. No one wants a huge settlement with nothing to collect.

# Ways Assets Can Be Hidden

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- ❖ A person could title their real estate in the name of family members or shell companies.
  - ❖ A person hiding assets could park their money in an offshore bank account and hire an intermediary to be the account's bank signatory.
  - ❖ A person can also hide assets by converting cash into portable valuable commodities like diamonds and smuggle the diamonds offshore.
  - ❖ If a "spouse" is a highly paid key employee, they may participate in a nonqualified deferred compensation plan offered by an employer, to essentially hide community property. (Requires subpoenas, potential spouse/employer depositions, etc.)
  - ❖ A person can be a SMURF. When a bank customer in the U.S. deposits or withdraws \$10,000 or more in cash, the bank must file a Currency Transaction Report ("CTR"). The bank files CTRs with the United States Treasury "FINCEN", which is a financial intelligence unit. To prevent the bank from filing a CTR, a "SMURF" would make several cash deposits under \$10,000. By structuring the cash deposits this way, the smurf hopes to fly under the radar.


# Ways to Locate Assets

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- ❖ Open-Source Intelligence, aka “OSINT”. **No expectation of privacy.**
  - ❖ Interviews. Collecting human intelligence / informants is sometimes the only practical way to detect a sophisticated scheme to hide assets. If there is an informant with knowledge of the hidden assets, the informant might be willing to tip you about the assets. This informant may be a disgruntled employee, family member, paramour, etc.
  - ❖ Bank Account Searches. The Gramm-Leach-Bliley (GLB) Act limits access to bank account information. To be clear, pretexting to obtain protected information is strictly illegal. Use legal avenues. Also, more and more banks are transitioning to “digital only” formats, which create additional roadblocks to locating bank accounts.
  - ❖ Surveillance.
  - ❖ Public Records. Civil and criminal records can be especially helpful as the subject may be on the brink of receiving, or owing, a substantial settlement, or on the brink of serving time in prison.

**Restricted sources** are available only to law enforcement.


**Protected sources** are not open to public inspection and may not be disclosed without a search warrant or subpoena from the court.

# Tips for Performing Bank Searches


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- ❖ **Identify The Bank's Document Retention Policies.** Banks have different document retention policies. U.S. banks maintain bank account records for 7 years while banks in Switzerland keep their records for 10 years. Although a bank may retain records beyond its retention period, it is important for you to know what this retention period is. You might even decide to forego your bank search if it is based on a stale lead and the bank's document retention period has long passed.
  - ❖ **Use The Legal Tools.** Your neighbor's bank customer information is not public information. Therefore, you should use the legal tools that may be available to you. The tools can include subpoenaing domestic banks and serving letters rogatory on offshore banks. You might also be able to use authorization forms for the release of bank account information.
  - ❖ **Avoid Backdoor Channels.** It is a crime to collect bank account information by phoning a bank and impersonating a bank customer. This phone call is based on false pretenses and is known as a pretext call. Another backdoor channel is bribing a bank teller account information. If you hire private investigators or data brokers to illegally access bank account information, then you could be criminally liable.



# What Can Be Uncovered?

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- ❖ Vehicles, including airplanes, automobiles, and boats.
  - ❖ Real estate. Tracing backwards can identify where the asset came from and provide proof of previous ownership.
  - ❖ Business & Corporate affiliations.
  - ❖ U.C.C. filings.
  - ❖ Bank Accounts. Pretexting to obtain protected information is strictly illegal. Legal means only!
  - ❖ US Patents & Trademarks.
  - ❖ Family Members.
  - ❖ Neighbors.

# What Can Be Uncovered – Part 2

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- ❖ Associates
  - ❖ Driver's License Information.
  - ❖ Professional Licenses.
  - ❖ Bankruptcies.
  - ❖ Liens and Judgments.
  - ❖ Residence History.
  - ❖ Telephone Numbers.
  - ❖ Civil or Criminal Records.

# Asset Investigations Have Two Stages

## **The first stage is gathering all the information.**

- ❖ Database searches. OSINT. Interviews. Surveillance.
- ❖ Where are they located?
- ❖ What is the value of the asset? How liquid is it?
- ❖ How is ownership/asset structured? Are the assets recoverable, and how?

As you implement your search strategy, find answers through surveillance, interviews, as well as searches of easily accessible records. Tracing backward can identify where the asset came from and provide proof of previous ownership.



# Asset Investigations Have Two Stages – Part 2

## The second stage is analysis.

- **Timeline analysis:** Organizing assets chronologically according to when they were acquired or sold.
- **Link analysis:** Creating a graphic representation using information collected from an array of sources to find patterns. Link analysis focuses on relationships between assets and individual holders.
- ❖ During the analysis, other records and accounts may come to light.
- ❖ What is the value of the asset? How liquid is it?
- ❖ Should you apply for an asset freeze order?



# What Is The First Step?

- ❖ Establish a budget.
- ❖ Set parameters on the search so you don't go down a rabbit hole.
- ❖ What are the objectives of the search?
- ❖ Leave aside anything that doesn't fit into the parameters or objectives of the search.
- ❖ Develop a strategy and ask more questions as you go.
- ❖ Are you assessing the viability of recovery, enforcing an existing decision, or are you afraid assets may be hidden?
- ❖ Providing ALL INFORMATION available to the investigator. Let the investigator determine what's important and what isn't.



# There is NO Magic Button!



# The More Information We Get The Better.

While we can get started on an asset search with minimal information, i.e., the bare bones, the more details provided, the better.

- ❖ First Name
- ❖ Last Name
- ❖ SSN
- ❖ Address
- ❖ Profession
- ❖ Marital Status
- ❖ Social Media Usernames
- ❖ Any other random details – there is no useless information when conducting asset searches.



# Questions & Answers







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# We Thank You