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Key Approaches for Maximizing Post-Judgment Enforcement Outcomes

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As we noted in our [Fraud and Commercial Loan Transactions: Post-Judgment Legal Strategies Webinar](#), fraud in commercial loan transactions presents significant challenges for creditors seeking to recover funds. Once a judgment is secured, it becomes essential to employ strategic and effective enforcement tools to turn a court ruling into tangible recovery. Below are key approaches discussed for maximizing post-judgment enforcement outcomes.

Securing Judgments and Asset Discovery

The first step following a judgment is ensuring it is properly recorded in the relevant jurisdiction. This process establishes a judicial lien on the debtor's real property, providing a foundation for future recovery actions. Alongside this, conducting detailed asset searches is critical. Utilizing third-party vendors, national or state databases, or digital tools like Westlaw can uncover valuable information about the debtor's bank accounts, real estate holdings, and other assets.

Bank Garnishments

Garnishments serve as a powerful mechanism to recover funds held in bank accounts. The process involves filing an affidavit of garnishment, obtaining a summons, and serving it to the bank. Once served, the bank is obligated to freeze the debtor's accounts and eventually transfer the funds to the court. This step often initiates productive settlement negotiations, as frozen accounts can prompt the debtor to engage in meaningful discussions.

Wage Garnishments

For employed debtors, wage garnishments provide an opportunity to collect on judgments incrementally. These continuing garnishments redirect a portion of the debtor's disposable income – up to 25 percent under federal limits – toward the creditor. While wage garnishments may not deliver immediate large recoveries, their steady nature can lead to significant long-term results. Understanding the state-specific rules governing wage garnishments is essential, as requirements and processes vary widely.

Seizures and Sheriff Sales

Seizures and sheriff sales are particularly effective for recovering value from high-value assets like real estate. This process involves working closely with local sheriff departments to ensure compliance with state-specific procedures. After advertising the sale and conducting public auctions, proceeds are applied to the judgment. These sales can also be used as leverage in negotiations, encouraging debtors to settle before their assets are liquidated.

Charging Orders for LLC Ownership

For debtors with ownership interests in closely held businesses, charging orders can redirect distributions from the entity to satisfy the judgment. This mechanism is particularly effective with LLCs, allowing creditors to access profits that would otherwise be distributed to the debtor. While this tool does not grant management rights or ownership control, it provides a method to recover funds without disrupting the entity's operations. Monitoring compliance with charging orders is crucial, as closely held businesses may attempt to circumvent them through deferred distributions or other methods.

Practical Enforcement Considerations

Enforcement actions require careful planning and execution. Timing can be critical, especially for actions like sheriff sales, where market conditions may influence the value of seized assets. Communication with local authorities, including sheriffs, ensures smooth processes and minimizes delays. Additionally, creditors should remain vigilant in gathering information about the debtor's financial activities, as this can lead to uncovering additional assets or identifying fraudulent transfers.

Conclusion

Post-judgment enforcement in cases involving fraud in commercial loan transactions requires a diverse set of tools and a strategic approach. From asset discovery to garnishments, sheriff sales, and charging orders, each mechanism provides unique opportunities for creditors to recover funds effectively. By leveraging these tools thoughtfully and in accordance with jurisdictional rules, creditors can maximize their chances of success in recovering on judgments.

If you have any questions or concerns about this topic, please reach out to [Kathleen G. Furr](#), [Lacey Rochester](#), [Kevin A. Stine](#), or any member of Baker Donelson's [Bankruptcy and Commercial Restructuring Team](#).