



Business Valuation in Divorce – Real Life Lessons Learned



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It is said that the truth can set you free. Sometimes in divorce the truth can be costly. A forensic accountant can help you find the truth in your client's situation by analyzing the couple's finances to uncover hidden assets. This information will help you obtain a fair and equitable settlement for your client.

Some people believe that everyone lies to an extent. In divorce valuation work, this may be oversimplified. The following are life examples of my search for the truth...or at least fairness and equity.

Talk to everyone – In divorce valuation work we almost always speak with the business owners and management. I also like to interview the non-owner spouse. In one instance while asking routine questions concerning “related party transactions” the non-owner spouse asked if a good friend would count as a related party. She explained that her dentist husband had a friend with a dental lab. She recalled them joking around about money laundering. Upon further investigation it was evident that the dental practice and dental lab would write checks to each other and cash them. Neither business did any work for each other. As a result each business could take a deduction for an expense that did not exist. Before speaking to the wife, all I saw was a check being written to a dental lab, which was not suspicious. Afterwards, I was able to uncover the scheme and determine that the business had approximately \$50,000 more income each year than it was reporting. Lesson learned.

Know your state case law – Each state may have nuances in how a divorce valuation is to be done. For example, in New Jersey divorce cases, business valuations are usually done under the Fair Market Value standard, but without discounts for lack of marketability or minority ownership. In working on a Florida divorce case from my home state of New Jersey, I was asked to value a Florida business. Since I was not familiar with Florida's treatment of divorce valuations, I contacted another valuation analyst in that state. She not only discussed the standard of value, but told me that in Florida goodwill is separated between practice goodwill and professional goodwill. This is not done in New Jersey. The value for the business would have been different if I used New Jersey's treatment of goodwill.

Use the resources in your own firm – Often times we are valuing businesses in industries in which our firm has a niche specialty. I was recently called upon to review an analysis of accounts receivable that was prepared for use in the valuation of a medical practice. It was my suspicion that the practice's billing software was not being properly utilized, thus incorrectly recording the accounts receivable. My firm has a healthcare niche and affiliate company that does medical billing. They provided me with the exact information needed to support my suspicions, as well as the name of a contact that uses the same billing software as the medical practice. Through this collaboration, we were able to discredit the accounts receivable analysis and consequently

change the value of the business significantly. The in-house expertise was critical to this analysis.

Keep good workpapers – In divorce work our clients do not always have the financial resources needed to build and support their cases. We are frequently under pressure to complete the job in a cost efficient manner. Even if you cut some corners at the client's request, documentation of your work is critical. In one case I took over a valuation that had been started by another accountant. The client asked that I use the work already done, which I did with permission of his prior accountant. I included this fact in my Engagement Letter and specified that I relied on this other accountant for specific items and therefore did not do that work myself. Upon cross examination in court the opposing counsel asked to see the Engagement Letter. When he clearly saw the scope of my work, he decided he could no longer cross examine me on certain issues. The other accountant was never brought in to testify, so we "won" on those issues.

I also keep detailed notes of meetings and telephone conversations, not to mention saving e-mails that have any impact on the engagement and determination of value. It presents a strong case to both attorneys when I can produce a dated e-mail from the business owner that substantiates a calculation in my report.

It is not always easy to find the truth, especially if one or both spouses are hiding assets. However, do be diligent, research and question the facts; be creative in your approach, and be honest. The truth usually does surface with help of a thorough forensic accountant.

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