

So You Want to Be A Forensic CPA?

Complex Cases in Divorce with Hands-on Forensic Accounting Solutions

Presented by:



Robert Vance, CPA, ABV, CFF, CVA, CFP

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Services, PLC, Robert Vance**

My Practice

- Business Valuation
- Divorce Analysis
- Forensic Economics
 - PI, WD, Business Disputes
- Fraud Investigation
- Creative Thinking
- I am the Jim Koerber of Memphis (just like he is the Rob Vance of Hattiesburg)

Why Are You Here?

To Learn.....

1. New forensic services and procedures to enhance your divorce & damages practice
2. Practice Tips
3. The basics of a Marital Balance Sheet
4. A few testimony tips
5. How interesting and humorous your job can be with a few situations I have encountered

Selling Yourself as a Forensic CPA*

Forensic CPAs can....

- Save the client money
- Testify
- Rely on hearsay as expert witnesses
- Be presented as an unbiased witness
- Smell problems
- Shift the balance of perceived relative negotiating power

* Mason, Miles, *The Forensic Accounting Deskbook* , American Bar Assoc.

Services Provided in Divorce

- Identifying and Valuing Marital & Separate Assets and Debts
- Proposing a Division to Minimize Alimony
- Analyzing Alimony Need & Ability to pay
- Comingling & Asset Tracing
- Business Valuation
- Present Cash Value of a Pension Interest
- Forensic Investigations

Practice Tips

- Have these ready to go:
 - New Client Memo routing/intake sheet
 - Standard document request in Word format
 - Business Valuation & Divorce Engagements
 - Fill in the blank PDF data sheet
 - Business Valuation, Divorce & PI/WD Engagements
 - Standard Engagement Letter template
 - Engagement Letter service insert language
- Have a great website as your “brochure” with downloadable and up-to-date PDF CV

Practice Tips

- Know your state's case law
- BE AVAILABLE!
 - Flexible on dates, answer your phone and emails
- Have laptop computer and spreadsheets at mediations and trial (hidden)
- Be sure to issue all docs in PDF format and password protect them so no one can copy segments or signatures
(Tools/Protection/Encrypt)

The Marital Balance Sheet

Marital Balance Sheet								Proposed Division				
No.	Description	Date	Title	FMV	Debt	Equity	Child or Separate Account	Marital	Husband		Wife	
									%	\$	%	\$
<u>REAL ESTATE</u>												
1	Marital Residence	5/31/14	J	500,000	0							
2	Mortgage	5/31/14	J		(405,000)							
3	Selling Expenses-7%	5/31/14	J		(35,000)	60,000		60,000	0.0%	0	100.0%	60,000
<u>CASH & INVESTMENTS</u>												
4	529 Account 1234	5/31/14	W	25,000	0	25,000	(25,000)	0	50.0%	0	50.0%	0
5	Bank Checking 2345	5/31/14	H	10,000	0	10,000		10,000	0.0%	0	100.0%	10,000
6	Brokerage Account 9876	5/31/14	J	285,000	0	285,000		285,000	40.0%	114,000	60.0%	171,000
7	Bank Checking 6543	5/31/14	H	55,000	0	55,000	(15,000)	40,000	100.0%	40,000	0.0%	0
8	Stock Options-Vested	5/31/14	H	94,222	0	94,222		94,222	100.0%	94,222	0.0%	0
9	Stock Options-Unvested	5/31/14	H	188,444	0	188,444		188,444	50.0%	94,222	50.0%	94,222
10	ABC Company-18% C/S	5/31/14	H	100,000	0	100,000		100,000	100.0%	100,000	0.0%	0
<u>RETIREMENT</u>												
11	Current Employer 401(k) 1122	3/31/14	H	390,000		390,000		390,000	45.0%	175,500	55.0%	214,500
12	Previous Employer 401(k) 2233	3/31/14	H	208,500		208,500	(59,768)	148,732	0.0%	0	100.0%	148,732
13	Previous Employer Def Ben Plan	5/31/14	W	98,172		98,172	(15,684)	82,487	0.0%	0	100.0%	82,487
14	Deferred Compensation-ABC Co	5/31/14	H	48,080		48,080		48,080	0.0%	0	100.0%	48,080
<u>PERSONAL PROPERTY</u>												
15	Vehicles	5/31/14	J	50,000	(38,000)	12,000		12,000	50.0%	6,000	50.0%	6,000
16	Stuff	5/31/14	J	50,000		50,000		50,000	50.0%	25,000	50.0%	25,000
<u>INTANGIBLES</u>												
17	PV of NOL Carryover	5/31/14	J	236,268		236,268		236,268	50.0%	118,134	50.0%	118,134
18	Dissipation by H	5/31/14	H	64,407		64,407		64,407	100.0%	64,407	0.0%	0
<u>OTHER DEBTS</u>												
19	Visa	5/31/14	J		(5,000)	(5,000)		(5,000)	100.0%	(5,000)	0.0%	0
20	Amex	5/31/14	J		(15,000)	(15,000)		(15,000)	100.0%	(15,000)	0.0%	0
TOTALS				2,403,093	(498,000)	1,905,093	(115,452)	1,789,641		811,485		978,156
									45.3%		54.7%	

The Marital Balance Sheet

Factors to Consider

- This is of course, property division
- Client's desire for a particular asset
- Practicality, legality or necessity of one spouse owning an asset or owing a debt
- Future income earnings from an asset or cost of a liability

The Marital Balance Sheet

Factors to Consider

- Future earning capacity of each spouse
- Concept of offset
- Tax and basis consequences
- Attorney's request for an unequal division

Related Issues & Analyses

- H's True Income
- Present Valuing a Defined Benefit Plan
- Dissipation Analysis
- Commingling & Transmutation of Separate Property
- Appreciation of Separate Property
- Deferred Compensation
- Stock Options

Marital Balance Sheet

No.	Description	Date	Title	FMV	Debt	Equity	Child or Separate Account	Marital	Proposed Division			
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									%	\$	%	\$
<u>REAL ESTATE</u>												
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2	Mortgage	5/31/14	J		(405,000)							
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									45.3%		54.7%	

**Growth of Pre-Marital Separate 401(k) Balance
Previous Employer 401(k) 2233**

Date of Valuation	5/31/2014	Balance 1/1/86	25,000
Date of Preparation	5/31/2014	Balance 5/31/14	208,500
Date of Marriage	1/1/1986	Total Growth	<u>183,500</u>
Years of Marriage	28.4		

Years		Beginning Balance	Contrib.	Return on Invest.	Ending Balance	% Return on Sep. Bal. + Contrib.	Return on Sep. Bal. + Sep. Bal.
1	1986	25,000	1,000	2,000	28,000	7.7%	26,923
2	1987	28,000	1,000	2,000	31,000	6.9%	28,780
3	1988	31,000	2,000	2,000	35,000	6.1%	30,524
4	1989	35,000	2,000	2,000	39,000	5.4%	32,174
5	1990	39,000	2,000	2,000	43,000	4.9%	33,743
6	1991	43,000	2,000	2,000	47,000	4.4%	35,243
7	1992	47,000	2,000	2,000	51,000	4.1%	36,682
8	1993	51,000	2,000	2,000	55,000	3.8%	38,066
19	2004	110,000	5,000	6,000	121,000	5.2%	48,692
20	2005	121,000	5,000	7,000	133,000	5.6%	51,397
21	2006	133,000	5,000	9,000	147,000	6.5%	54,749
22	2007	147,000	5,000	(5,000)	147,000	-3.3%	52,948
23	2008	147,000	5,000	(25,000)	127,000	-16.4%	44,240
24	2009	127,000	5,000	2,000	134,000	1.5%	44,910
25	2010	134,000	5,000	3,000	142,000	2.2%	45,879
26	2011	142,000	5,000	8,000	155,000	5.4%	48,376
27	2012	155,000	5,000	15,000	175,000	9.4%	52,911
28	2013	175,000	5,000	20,000	200,000	11.1%	58,790
28.4	5/31/2014	200,000	500	8,000	208,500	1.7%	59,768
			<u>105,500</u>	<u>78,000</u>		3.2%	

Defined Benefit Pension Interest Valuation

Case Information

Date of Valuation 5/31/2014
 Date of Preparation 5/31/2014
 Date of Marriage 1/1/1986
 Years of Marriage 28.4
 Marital Percentage 84.0%

Plan Information

Employer Previous Employer Def Ben Plan
 Payout Method Straight Life Annuity
 Date of Retirement 10/29/2015
 Plan Name TCRS

Participant Information

Participant Wife Date of Plan Participation 8/1/1980
 Sex F Date of Birth 10/29/1955
 Race W Age at Valuation Date 58.6
 Date of Hire 8/1/1980 Retirement age used in
 Years of Creditable Service this calculation 60.0
 as of Date of Valuation 33.8 Vested Percentage 100.0%

Calculations

Monthly Retirement Benefit as of Valuation Date	<u>\$425</u>	a.
Life expectancy at valuation date ¹	26.2	b.
Number of years to retirement age (deferral period)	<u>1.4</u>	c.
Years of life expectancy beyond retirement age (payout period)	24.8	d. b. - c. = d.
Discount rate for payout period ²	3.42%	
Less COLA ³	<u>1.70%</u>	
Net discount rate for payout period	1.72%	e.
Present value of monthly benefits at retirement date	102,904	f. Present value of a. discounted with e.
Discount rate for deferral period ²	3.42%	g.
Present value of retirement benefits at valuation date	98,172	h. Present value of f. discounted with g.
Marital Percentage	<u>84.0%</u>	i.

Marital value of retirement benefits at valuation (divorce) date	\$82,487	j. h. x i. = j.
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Present Value of an NOL Carryover

Original NOL: \$1,000,000			Federal Income Tax Savings From NOL	Present Value of Federal Income Tax Savings Disc rate 5%
Year	AGI	Remaining NOL		
1	250,000	750,000	66,631	63,458
2	250,000	500,000	66,631	60,436
3	250,000	250,000	66,631	57,558
4	250,000	0	66,631	54,817
An Intangible Asset on the MBS				<u>236,268</u>

Dissipation of Marital Assets by Husband

Girlfriend Expenses

Date	Check Num	Description	Memo	Totals	Girlfriend Expenses					Athletic	Casino	Cosmetic
					Travel	Clothing & Dept. Stores	Meals & Ent.	Loans to G'friend	Jewelry	Tickets	ATM Cash	Medical
10/1/05		Disney World Trip	H's ROGS	5,000.00			5,000.00					
10/13/05	1032	Wrestlemania	H's ROGS	2,000.00						2,000.00		
11/1/05	1016	Check to Girlfriend		2,500.00				2,500.00				
11/1/05	1045	Wrestlemania	H's ROGS	2,000.00						2,000.00		
11/28/05		Abercrombie And Fitch		518.95		518.95						
11/28/05		Banana Republic		219.58		219.58						
12/6/05		Airline	H's ROGS	503.90	503.90							
12/6/05		Airline	H's ROGS	503.90	503.90							
12/20/05	1053	Check to Girlfriend		415.00				415.00				
12/27/05		Miguelas Clothing	Girlfriend	692.65		692.65						
12/29/05		Miguelas Clothing	Girlfriend	127.00		127.00						
1/3/06		Airline		915.14	915.14							
1/3/06		Airline	Chicago trip	915.14	915.14							
1/18/06		Ruth's Chris Steak House	H seen w/ Girlfriend	341.00				341.00				
1/20/06	1183	Limo Service To Night Clubs	paypal reimbursement	500.00				500.00				
2/15/06		Cosmetic Dentist Inc.		5,000.00								5,000.00
2/15/06		Hair Plugs R Us	Per H's Admission	10,200.00								10,200.00
2/22/06	1123	Check to Girlfriend		360.00				360.00				
5/10/06		Victoria's Secret		127.28		127.28						
5/11/06		Barbie Live	H's ROGS	135.55				135.55				
5/12/06		Atm Cash Withdrawal		402.00							402.00	
5/12/06		Ticketmaster	H's ROGS	1,021.55				1,021.55				
5/19/06		Girlfriend's Diamond Ring	Per H's Depo	20,000.00					20,000.00			
5/20/06		ABC Marina	H's ROGS	175.26	175.26							
5/30/06		Marriott Hotels LA		578.28	578.28							
6/8/06		Atm Cash Withdrawal		400.00							400.00	
6/9/06	1130	Cash		1,300.00							1,300.00	
7/10/06		Gap		411.85		411.85						
7/10/06		Victoria's Secret		343.05		343.05						
8/17/06		Over-the-counter Withdrawal		6,000.00							6,000.00	
9/8/06	1283	Cash		800.00							800.00	
Totals				64,407.08	3,591.62	2,440.36	6,998.10	3,275.00	20,000.00	4,000.00	8,902.00	15,200.00

Need and Ability to Pay Alimony

Single-month analysis is flawed for these reasons:

1. Represents a snapshot in time
2. Gross understatement of income by self-employed and commission or bonus-dependant spouses
3. Use of expense figures that appear to be historical, however the future expenses will inevitably be different due to new housing arrangements, additional child care expenses, duplications, and ***INFLATION***

Need and Ability to Pay Alimony

Single-month analysis is flawed for these reasons:

4. Failure to incorporate the use of investment earnings available from the divided property
5. Failure to incorporate the use of retirement assets or pensions at retirement date or for use immediately if necessary
6. Overstatement of monthly expenses after listing those ordered to pay as temporary support which may end

Need and Ability to Pay Alimony

The Analysis

- A simplified, lifetime financial plan covering all of the remaining years of each spouse's life expectancy
- A forward-looking projection
- Standard of Living
- Earning Capacity
 - SIDS – Sudden Income Deficit Syndrome
 - If I had a dime for every time I heard the statement “business is way-off this year”

Wife's Need for Support

(A)	(B)	(C) +	(D) -	(E) -	(F) +	(G) +	(H) +	(I) +	(J) =	(K) -	(L) =	(M) -	(N) -	(O) =
Year	Age	Employment Earnings 3.0% Inflation	FICA	Retirement Contrib.	Child Support \$1,500	Regular Alimony \$4,000 \$2,000	Draws From Retirement	Social Security 3.0% COLA	Total Income	Federal Income Tax	Net Disposable Income	Mortgage Prin & Int	Personal Living Expenses	Annual (Deficit or Surplus
1	39	0	0	0	18,000	48,000	0	0	66,000	(3,143)	62,858	(8,154)	(59,340)	(4,637)
2	40	0	0	0	18,000	48,000	0	0	66,000	(3,324)	62,676	(8,154)	(48,580)	5,942
3	41	36,000	(2,754)	(2,000)	18,000	24,000	0	0	73,246	(5,079)	68,167	(8,154)	(59,458)	556
4	42	37,080	(2,837)	(2,000)	18,000	24,000	0	0	74,243	(6,615)	67,628	(8,154)	(61,061)	(1,587)
5	43	38,192	(2,922)	(2,000)	18,000	24,000	0	0	75,271	(7,282)	67,988	(8,154)	(58,529)	1,306
6	44	39,338	(3,009)	(2,000)	18,000	24,000	0	0	76,329	(8,017)	68,312	(8,154)	(54,104)	6,054
7	45	40,518	(3,100)	(2,000)	18,000	24,000	0	0	77,419	(8,744)	68,675	(8,154)	(55,728)	4,793
8	46	41,734	(3,193)	(2,000)	18,000	24,000	0	0	78,541	(9,463)	69,078	(8,154)	(57,399)	3,525
9	47	42,986	(3,288)	(2,000)	18,000	24,000	0	0	79,697	(10,175)	69,522	(8,154)	(59,121)	2,247
10	48	44,275	(3,387)	(2,000)	18,000	24,000	0	0	80,888	(10,881)	70,007	(8,154)	(60,895)	958
11	49	45,604	(3,489)	(2,000)	18,000	0	0	0	58,115	(6,010)	52,106	(8,154)	(68,722)	(24,770)
12	50	46,972	(3,593)	(2,000)	18,000	0	0	0	59,378	(6,237)	53,142	(8,154)	(70,603)	(25,616)
13	51	72,571	(5,552)	(4,000)	18,000	0	0	0	81,020	(11,869)	69,151	(8,154)	(72,542)	(11,545)
27	65	109,771	(8,397)	(4,000)	0	0	0	0	97,373	(25,508)	71,865	0	(69,097)	2,768
28	66	113,064	(8,649)	(4,000)	0	0	0	0	100,415	(26,820)	73,594	0	(71,170)	2,424
29	67	116,456	(8,738)	(4,000)	0	0	0	0	103,718	(28,175)	75,543	0	(73,305)	2,238
30	68	0	0	0	0	0	29,000	18,000	47,000	(10,412)	36,588	0	(81,504)	(44,917)
31	69	0	0	0	0	0	29,000	18,540	47,540	(10,318)	37,223	0	(83,769)	(46,547)
32	70	0	0	0	0	0	29,000	19,096	48,096	(10,194)	37,902	0	(86,103)	(48,201)
33	71	0	0	0	0	0	29,000	19,669	48,669	(10,041)	38,628	0	(88,506)	(49,877)
34	72	0	0	0	0	0	29,000	20,259	49,259	(9,855)	39,404	0	(90,981)	(51,577)
35	73	0	0	0	0	0	29,000	20,867	49,867	(9,635)	40,231	0	(87,530)	(47,299)
36	74	0	0	0	0	0	29,000	21,493	50,493	(9,457)	41,036	0	(90,156)	(49,120)
37	75	0	0	0	0	0	29,000	22,138	51,138	(9,243)	41,895	0	(92,861)	(50,966)
38	76	0	0	0	0	0	29,000	22,802	51,802	(8,991)	42,811	0	(95,647)	(52,835)
39	77	0	0	0	0	0	29,000	23,486	52,486	(8,699)	43,787	0	(98,516)	(54,729)
40	78	0	0	0	0	0	29,000	24,190	53,190	(8,364)	44,826	0	(101,472)	(56,645)
41	79	0	0	0	0	0	29,000	24,916	53,916	(7,985)	45,931	0	(104,516)	(58,584)
42	80	0	0	0	0	0	29,000	25,664	54,664	(7,557)	47,107	0	(107,651)	(60,545)
43	81	0	0	0	0	0	29,000	26,434	55,434	(7,079)	48,354	0	(110,881)	(62,526)
44	82	0	0	0	0	0	29,000	27,227	56,227	(6,547)	49,679	0	(114,207)	(64,528)
		1,991,970	(152,215)	(88,000)	288,000	288,000	435,000	334,780	3,097,536	(545,264)	2,552,272	(122,312)	(3,277,210)	(847,248)

FICA Wage Base for 2013 = \$113,700

Wife's Investment Savings

						Bank 1	0
						Bank 2	0
Allocation:	<u>100%</u>	<u>10%</u>	<u>0%</u>	<u>30%</u>	<u>60%</u>	Bank 3	0
Balance at Divorce:	0	0	0	0	0	Bank 4	0
Investment Type:		Cash	Fixed Inc.	Fixed Inc.	Equities	Bank 5	0
Investment Vehicle:	Average	MM	U.S. Treas.	Bond Fund	Stock Avg.		<u>0</u>
Return %:	5.2%	0.5%		5.0%	6.0%		

Year	Age					Annual Return	Cumulative Return	Surplus or Deficit	Net Sale of House	Alimony In Solido	Investment Balance	
1	39	0	0	0	0	0	0	(4,637)		5,950	1,313	
2	40	1	0	20	47	68	68	5,942		5,950	13,273	
3	41	7	0	199	478	684	752	556	150,822	5,950	171,285	
4	42	86	0	2,569	6,166	8,821	9,573	(1,587)		5,950	184,469	
5	43	92	0	2,767	6,641	9,500	19,073	1,306		5,950	201,226	
6	44	101	0	3,018	7,244	10,363	29,436	6,054			217,643	
7	45	109	0	3,265	7,835	11,209	40,645	4,793			233,645	
8	46	117	0	3,505	8,411	12,033	52,678	3,525			249,203	
9	47	125	0	3,738	8,971	12,834	65,512	2,247			264,284	
10	48	132	0	3,964	9,514	13,610	79,122	958			278,852	
11	49	139	0	4,183	10,039	14,361	93,483	(24,770)			268,443	
12	50	134	0	4,027	9,664	13,825	107,308	(25,616)			256,652	
13	51	128	0	3,850	9,239	13,217	120,525	(11,545)			258,324	
27	65	236	0	7,072	16,974	24,282	370,986	2,768			498,545	
28	66	249	0	7,478	17,948	25,675	396,661	2,424			526,644	
29	67	263	0	7,900	18,959	27,122	423,783	2,238			556,004	
30	68	278	0	8,340	20,016	28,634	452,417	(44,917)			539,721	
31	69	270	0	8,096	19,430	27,796	480,213	(46,547)			520,970	
32	70	260	0	7,815	18,755	26,830	507,043	(48,201)			499,599	
33	71	250	0	7,494	17,986	25,730	532,773	(49,877)			475,452	
34	72	238	0	7,132	17,116	24,486	557,259	(51,577)			448,361	
35	73	224	0	6,725	16,141	23,090	580,349	(47,299)			424,152	
36	74	212	0	6,362	15,269	21,843	602,192	(49,120)			396,875	
37	75	198	0	5,953	14,287	20,438	622,630	(50,966)			366,347	
38	76	183	0	5,495	13,188	18,866	641,496	(52,835)			332,378	
39	77	166	0	4,986	11,966	17,118	658,614	(54,729)			294,767	
40	78	147	0	4,421	10,612	15,180	673,794	(56,645)			253,302	
41	79	127	0	3,800	9,119	13,046	686,840	(58,584)			207,764	
42	80	104	0	3,116	7,479	10,699	697,539	(60,545)			157,918	
43	81	79	0	2,369	5,685	8,133	705,672	(62,526)			103,525	
44	82	52	0	1,553	3,727	5,332	711,004	(64,528)			44,329	
									(847,248)	150,822	29,751	

Interesting Variation

Failure to Invest

Accounts Awarded

Profit Sharing Plan 117,874

Allocation:			100%	10%	0%	10%	80%					
Balance at Divorce:			117,874	11,787	0	11,787	94,299					
Investment Type:			Cash	Fixed Inc.	Fixed Inc.	Equities*						
Investment Vehicle:			Average	MM	U.S. Treas	Bond Fund	Stock Avg.					
Return %:			6.9%	0.5%		5.0%	7.99%					
# Year	Calendar Year	Age						Annual Return	Cumulative Return	Contribution	Distribution	Investment Balance
1	2005	55	59	0	589	7,535	8,183	8,183	0	0	0	126,057
2	2006	56	63	0	630	8,058	8,751	16,934	0	0	0	134,808
3	2007	57	67	0	674	8,617	9,358	26,292	0	0	0	144,166
4	2008	58	72	0	721	9,215	10,008	36,300	0	0	0	154,174
5	2009	59	77	0	771	9,855	10,703	47,003	0	0	0	164,877
6	2010	60	82	0	824	10,539	11,445	58,448	0	0	0	176,322
7	2011	61	88	0	882	11,271	12,241	70,689	0	0	0	188,563
8	2012	62	94	0	943	12,053	13,090	83,779	0	0	0	201,653
9	2013	63	101	0	1,008	12,890	13,999	97,778	0	0	0	215,652
10	2014	64	108	0	1,078	13,784	14,970	112,748	0	0	0	230,622
								112,748		0	0	

Allocation:			100%	10%	0%	10%	80%					
Balance at Divorce:			117,874	11,787	0	11,787	94,299					
Investment Type:			Cash	Fixed Inc.	Fixed Inc.	Equities*						
Investment Vehicle:			Average	MM	U.S. Treas	Bond Fund	Stock Avg.					
Return %:			6.9%	0.5%		5.0%	7.99%					
# Year	Calendar Year	Age						Annual Return	Cumulative Return	Contribution	Distribution	Investment Balance
1	2005	55	59	0	589	7,535	8,183	8,183	4,000	0	0	130,057
2	2006	56	65	0	650	8,313	9,028	17,211	4,000	0	0	143,085
3	2007	57	72	0	715	9,146	9,933	27,144	4,000	0	0	157,018
4	2008	58	79	0	785	10,037	10,901	38,045	4,000	0	0	171,919
5	2009	59	86	0	860	10,989	11,935	49,980	4,000	0	0	187,854
6	2010	60	94	0	939	12,008	13,041	63,021	4,000	0	0	204,895
7	2011	61	102	0	1,024	13,097	14,223	77,244	4,000	0	0	223,118
8	2012	62	112	0	1,116	14,262	15,490	92,734	4,000	0	0	242,608
9	2013	63	121	0	1,213	15,508	16,842	109,576	4,000	0	0	263,450
10	2014	64	132	0	1,317	16,840	18,289	127,865	4,000	0	0	285,739
								127,865		40,000	0	

*Vanguard 500 Index Fund Investor Shares (VFINX)

10 Year Average Return:

7.99%

Forensic Accounting

Failure to Preserve

Non-performing (i.e., Non-income Producing) Speculative Investments

- Commercial office building \$50,000
- XYZ Cellars, LLC \$50,000
- XYZ Energy TN, I, LLC \$150,000
- ABC Beverage Group \$25,000
- Delta LLC \$100k personal financial statement

Forensic Accounting

Failure to Preserve

- Six pieces of residential real estate

Property Address	Date Purchased	Purchase Price	Monthly Income	Monthly Expenses	Monthly Deficit
Lookout Drive	1/05/2012	75,000	0	49	(49)
Forest Hill-Irene Drive	9/27/2007	0	0	4,300	(4,300)
Simsbury	4/3/1985	0	0	22	(22)
Rustling Oaks Circle	10/30/2014	107,500	0	187	(187)
Snowden	5/18/2012	6,000	0	89	(89)
Carnes (80%)	8/01/2012	10	0	0	0
atam County Property	11/12/2012	120,000	0	89	(89)
Total		308,510	0	4,736	(4,736)

Forensic Accounting

Excessive Spending

<u>Statements</u>			<u>Liquor</u>		<u>Grocery</u>		<u>Memphis</u>		
<u>Provided</u>	<u>Restaurants</u>	<u>Bars</u>	<u>Stores</u>	<u>Walgreens</u>	<u>Stores</u>	<u>Gas</u>	<u>Grizzlies</u>	<u>Misc.</u>	<u>Total</u>
2/12/2014	\$765.55	\$2,137.84	\$542.72	\$936.76	\$0.00	\$218.36	\$0.00	\$118.81	\$4,720.04
4/27/2014	882.92	481.15	630.03	400.00	207.96	205.55	1,000.00	55.98	3,863.59
9/26/2014	1,199.21	198.57	974.39	389.39	202.91	307.70	0.00	715.97	3,988.14
11/27/2014	1,476.09	165.09	681.26	575.88	198.90	197.00	0.00	74.98	3,369.20
12/28/2014	1,258.07	0.00	936.51	273.21	274.78	239.41	2,230.25	5,438.62	10,650.85
9/27/2015	454.78	62.09	831.44	361.45	208.13	284.92	0.00	1,328.44	3,531.25
10/28/2015	391.09	0.00	366.36	207.19	0.00	143.40	0.00	593.18	1,701.22
11/27/2015	850.03	163.63	555.58	134.44	206.97	151.10	0.00	1,486.84	3,548.59
12/28/2015	179.60	0.00	475.31	355.78	0.00	194.45	0.00	3,321.93	4,527.07
1/28/2016	1,305.37	188.15	421.91	353.12	21.40	124.95	0.00	419.95	2,834.85
2/26/2016	118.79	0.00	85.14	265.18	0.00	111.55	0.00	624.61	1,205.27
3/28/2016	546.92	43.59	577.66	313.08	0.00	104.28	0.00	620.62	2,206.15
4/27/2016	45.26	109.39	180.45	329.55	89.33	174.25	0.00	641.31	1,569.54
5/27/2016	308.47	0.00	381.28	549.89	0.00	142.00	0.00	818.78	2,200.42
Total	9,782.15	3,549.50	7,640.04	5,444.92	1,410.38	2,598.92	3,230.25	16,260.02	49,916.18
Stmts									
Provided (Mo)	14	14	14	14	14	14	14	14	14
Average	698.73	253.54	545.72	388.92	100.74	185.64	230.73	1,161.43	3,565.44
Analysis									
Period (Mo)	30	30	30	30	30	30	30	30	30
Extrapolated									
Amount Spent	\$20,962	\$7,606	\$16,372	\$11,668	\$3,022	\$5,569	\$6,922	\$34,843	\$106,963

Deposition and Trial Testimony

- Establish boundaries
- Use and know the clock
- Deal with errors up front
- If you are getting beat up, relax
- Comply with the subpoena and keep your file organized
- What to bring(not) with you

Deposition and Trial Testimony

- Don't worry about consecutive "no's" and "I don't know's"
- Trust re-direct examination to remove the sting on problem areas
- Show confidence with "I don't know" or "I don't understand the question"
- Avoid diarrhea of the mouth

Deposition and Trial Testimony

- Do not ignore exaggerations and outright misstatements
- Avoid absolute words and “lock-in” phrases
- Not being allowed to finish the answer and being told to answer with a “yes” or “no”
- Stick to your area of expertise
- Know the standards
- Don’t get angry or argue with the attorney

Deposition and Trial Testimony

- Have you ever read Pratt's books?
- Have you ever appraised a widget factory?
- What's on your website and brochures?
- Do you recall the article you wrote for...?
- Who is this person who worked on the job?
- How many times have you testified in...?



**Fraud in Divorce
(I know-shocking isn't it?)**

***“I will not lie, cheat or steal or
tolerate those who do”***

**West Point's Cadet
Honor Code**

H Claimed Substantial Contrib. to W's Sep. Prop. Appreciation

- Claiming his federal tax w/h from paychecks earlier in the marriage helped to pay tax on W's separate income (expert analysis revealed that W actually contributed \$50k to cover H's tax shortages on the income he earned)
- Gave investment advice to W's trustees (even though most investments were in gifted public company stock or the family's own proprietary mutual funds)

H Claimed Substantial Contrib. to W's Sep. Prop. Appreciation

- Claiming he was allowed to make withdrawals from the trust funds (W claims he had to get her permission and H denied this)
- Posting large tax losses on his sole prop. business thereby offsetting tax liability of W (i.e. his losses contributed to her appreciation)
- Hiring a CPA to prepare taxes that saved \$41k in taxes (but with fraudulent info from H)

Now I Own It/Now I Don't

- W's father methodically gifted shares in family business over 16 years, but no gift tax returns filed (to be a true gift for IRS purposes it must be irrevocable)
- Meticulous hand written spreadsheet on gifts
- Corporate tax returns show W's ownership interest increasing each year
- Father actually issued Deeds of Gift (have you ever heard of a Deed of Gift?)

Now I Own It/Now I Don't

- Handwritten “death bed” letter from father detailing the gifting and his intentions
- Letter from corp. CPA and father to a bank explaining W’s ownership in the corp.
- Stock redemption agreement in W’s name
- At divorce time, father claims it was all a sham to save taxes and only **IF** he died (i.e.-FRAUD)
- Case settled-my client came out great!



“The difference between tax avoidance and tax evasion is the thickness of a prison wall.”

Denis Healey

“Income tax has made more liars out of the American people than golf.”

Will Rogers

Tax Avoidance or Tax Evasion?

- Divorce—2nd worst case of tax fraud in career
- Husband owned small financial services co. organized as a “C” Corporation
- Our client, Wife, claimed Husband ran personal expenses through the company
- We fought tooth and nail to get a backup of QuickBooks (which we eventually received) and downloaded expense categories
- Husband issued himself a W-2 that averaged \$120,000 per year

Tax Avoidance or Tax Evasion?

- Virtually every credit card charge was written off as business along with club dues, vacations, 3 to 4 personal mortgages, strippers
- Nothing clever - just blatant, deliberate and consistent tax fraud
- We showed his true income to be an average of \$365k per year – he settled on \$275k a few days after my testimony over the weekend

Common Theme?

- Most small businesses cheat somewhere
- Implied leverage
- Get the QuickBooks backup file, user name and password
- QuickBooks supposedly enjoys an 80% market share in 2015
- Always ask for it whether you know they use QB or not – odds are they do

Thank You!

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