

The Good, The Bad and the Unusual

A Workshop on Complex Forensic Accounting Applications

Robert Vance, CPA, ABV, CFF, CVA, CFP
 *Forensic & Valuation Services, PLC*
Memphis, TN



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The Good, The Bad and the Unusual
A Workshop on Complex Forensic Accounting
Applications

- The Good - A Romp with Executive Comp
- The Bad - Show Me the Money
- The Unusual - The Thickness of a Prison Wall
- The Good, Bad & Unusual - *Tarver*
- The Good, Bad & Unusual - *Lucchesi*



The Good - A Romp with Executive Comp

- Husband is a senior executive at a public company
- Multiple lucrative executive comp & retirement benefits
- Stock Options granted annually
- Marital vs. Separate Property
- Coverture Fraction
- I valued his employment-related assets and placed them in a *Marital Balance Sheet*



Total Investible Non-Retirement Assets to Wife

Merrill Lynch - 1234	325,000
Merrill Lynch - 2345	1,100,000
Merrill Lynch - 3456	140,000
Investment - MiscBrokers	11,000
Wife's E-Trade Acct	2,000
Wife's Private Acct (IRA??)	7,000
TD Ameritrade	0
ABC Stock Options-xx,xxx options all unvested	0
ABC Restricted Stock Grants-xxxx shares all unvested	124,573
Total	<u>1,709,573</u>
Annual Return @ 5%	<u>85,479</u>

Total Investible Retirement Assets to Wife

Wife's IRA	125,000
Vanguard 401k	448,135
Traditional Pension Benefit (TPB)	0
Retirement Parity Pension Plan Traditional Pension Benefit (TPB)	0
Portable Pension Account (PPA) - ABC Corp Employee's Pension	0
Total	<u>573,135</u>
Annual Return @ 5%	<u>28,657</u>
Annual Return on Total Investible Assets	<u>114,135</u>



ABC Executive Comp Plans
ABC Closing Share Price 5/31/2018 **\$240.00**
Assumed Trial Date 6/15/2018
Report Date 6/15/2018

				(A)	(B)	(C)	(D)	(E)	(F)	(G)					
<u>Options Balance</u>				Total	Fed Tax	Net Value	Days From	Days From	Days From	Present Value	Coverture	Marital Value			
Grant Date	Option Price	Current Balance	Last Date to Exercise	Option Vest Date	Options Unvested	Income per Option	Income on Unvested Shares	on Unvested Shares 37.0%	on Unvested Shares	Grant Date to Vest Date	Grant Date to Trial Date	Trial Date to Vest Date	4.01% Using (A)	(D) / (B)	(E)x(F)x50%
6/9/2014	140.00	1,405	6/9/24	7/15/18	1,400	100.00	140,000	(51,800)	88,200	1,497	1,467	30	87,915	98.0%	43,077
6/8/2015	175.00	2,335	6/8/25	7/15/18	1,200	65.00	78,000	(28,860)	49,140	1,133	1,103	30	48,981	97.4%	23,842
				7/15/19	1,200	65.00	78,000	(28,860)	49,140	1,498	1,103	395	47,093	73.6%	17,338
6/6/2016	160.00	4,152	6/6/26	7/15/18	1,300	80.00	104,000	(38,480)	65,520	769	739	30	65,309	96.1%	31,380
				7/15/19	1,300	80.00	104,000	(38,480)	65,520	1,134	739	395	62,791	65.2%	20,460
				7/15/20	1,300	80.00	104,000	(38,480)	65,520	1,500	739	761	60,363	49.3%	14,870
6/12/2017	195.00	4,930	6/12/27	7/15/18	1,100	45.00	49,500	(18,315)	31,185	398	368	30	31,084	92.5%	14,371
				7/15/19	1,100	45.00	49,500	(18,315)	31,185	763	368	395	29,886	48.2%	7,207
				7/15/20	1,100	45.00	49,500	(18,315)	31,185	1,129	368	761	28,731	32.6%	4,682
				7/15/21	1,100	45.00	49,500	(18,315)	31,185	1,494	368	1,126	27,623	24.6%	3,402
		<u>12,822</u>			<u>12,100</u>		<u>806,000</u>	<u>(298,220)</u>	<u>507,780</u>				<u>489,777</u>		<u>180,628</u>



ABC Corporation Long Term Incentive Program (LTI)

Assumed Trial Date: 6/15/2018

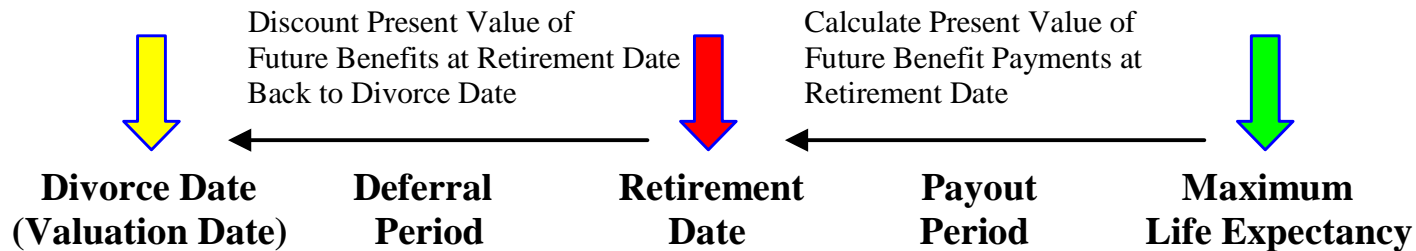
Report Date: 6/15/2018

Program	Payout Target ¹	Grant Date	Vest Date	Total Income on Unvested Payout	Fed Tax on Unvested Payout 37.0%	(A) Net Value on Unvested Payout	(B) Days From Grant Date to Vest Date	(C) Days From Grant Date to Trial Date	(D) Days From Trial Date to Vest Date	(E) Present Value 6.01% (A) Using (D) ²	(F) Coverture Fraction (C) / (B)	(G) Marital Value to W & H @ 50% (E)x(F)x50%
FY 2016 - FY 2018	200,000	6/1/15	5/31/18	200,000	(74,000)	126,000	1,095	1,110	0	126,000	100.0%	63,000
FY 2017 - FY 2019	250,000	6/1/16	5/31/19	250,000	(92,500)	157,500	1,094	744	350	148,928	68.0%	50,641
FY 2018 - FY 2020	250,000	6/1/17	5/31/20	250,000	(92,500)	157,500	1,095	379	716	140,462	34.6%	24,308
	<u>700,000</u>			<u>700,000</u>	<u>(259,000)</u>	<u>441,000</u>				<u>415,390</u>		<u>137,949</u>



Who Doesn't Love Explaining The Time Value of Money?

$$PV = \sum_{k=1}^n C(1+i)^{-k}$$



ABC Traditional Pension Benefit (TPB)

Case Information

Date of Valuation 6/4/2018
Date of Preparation 6/2/2018
Date of Marriage 6/1/1996
Years of Marriage 22.01

Participant Information

Participant Husband
Sex M
Race W
Date of Birth 5/1/1967
Age at Date of Valuation 51.1

Plan Information

Employer ABC
Plan Name Traditional Pension Benefit (TPB)
Date of Hire 7/1/1992
Years of Service 25.92

Marital Portion Percentage (Coverture Fraction)

Years of Marriage 22.01
Years of Service 25.92
Marital % 84.9%

Monthly Retirement Benefit as of Valuation Date	\$2,826.67	ABC Pension Account Summary dated 2/28/2018; Single Life Annuity
Retirement age used in this calculation	65.0	
Life expectancy at valuation date ¹	29.9	
Number of years to retirement age (Deferral Period)	<u>13.9</u>	
Years of life expectancy beyond retirement age (Payout Period)	16.0	
Discount rate for Payout Period ²	3.01%	
Adjustment for risk	<u>0.00%</u>	
Net discount rate for Payout Period	3.01%	
Present value of monthly benefits at retirement date ³	430,292	Using Payout Period
Discount rate for deferral period ²	<u>3.01%</u>	
Present value of retirement benefits at valuation date ³	284,931	Using Deferral Period
Less estimated Federal Income Taxes ⁴	<u>(68,383)</u>	
Net After-tax	216,548	
Marital portion percentage (Coverture Fraction)	<u>84.9%</u>	
Marital value of retirement benefits at valuation (divorce) date	<u>\$183,882</u>	

Separate Property Appreciation in TN

- TCA § 36-4-121 (b)(1)(B)(iii); The account balance, accrued benefit, or other value of vested and unvested pension benefits, vested and unvested stock option rights, retirement, and other fringe benefits accrued as a result of employment prior to the marriage, together with the appreciation of the value, shall be "separate property."



Date of Marriage (DOM) 6/1/1996

Balances as of 7/31/2017

<u>Total</u>	<u>Separate</u>	<u>Marital</u>
1,101,787	235,768	866,018

Totals-Separate & Marital

Statement	DOM Beginning Balance	Contribution*	Other Transactions	Withdrawal/ Loan	Market Gain/Loss	Market Return on all Transactions	Total Gain/Loss	Ending Balance
12/31/1996	76,000	5,500	2,000	0	15,490	18.55%	22,990	98,990
12/31/1997	98,990	13,750	5,000	0	42,822	36.37%	61,572	160,562
12/31/1998	160,562	11,000	4,000	0	16,587	9.45%	31,587	192,149
12/31/1999	192,149	12,619	4,443	0	30,774	14.71%	47,836	239,985
12/31/2000	239,985	12,712	3,130	0	(22,162)	-8.66%	(6,319)	233,666
12/31/2001	233,666	11,000	3,413	0	(23,274)	-9.38%	(8,861)	224,805
12/31/2002	224,805	11,000	3,851	0	(43,650)	-18.21%	(28,798)	196,006
12/31/2003	196,006	12,500	4,150	0	43,333	20.38%	59,983	255,989
12/31/2004	255,989	13,500	6,692	0	22,385	8.11%	42,577	298,566
12/31/2005	298,566	14,500	8,076	0	4,558	1.42%	27,133	325,699
12/31/2006	325,699	15,500	9,382	0	27,513	7.85%	52,395	378,095
12/31/2007	378,095	16,000	11,059	0	3,608	0.89%	30,667	408,762
12/31/2008	408,762	27,597	11,821	0	(110,231)	-24.60%	(70,813)	337,948
12/31/2009	337,948	19,413	11,433	0	53,700	14.56%	84,546	422,494
12/31/2010	422,494	24,289	11,963	0	40,092	8.74%	76,344	498,838
12/31/2011	498,838	28,431	13,358	0	3,348	0.62%	45,136	543,975
12/31/2012	543,975	31,538	15,246	0	49,243	8.34%	96,026	640,001
12/31/2013	640,001	21,924	15,746	0	131,175	19.36%	168,844	808,845
12/31/2014	808,845	397	18,174	0	80,252	9.70%	98,823	907,668
12/31/2015	907,668	0	21,060	0	(19,650)	-2.12%	1,410	909,079
12/31/2016	909,079	0	10,162	0	85,120	9.26%	95,282	1,004,361
7/31/2017	1,004,361	0	424	0	97,002	9.65%	97,426	1,101,787
		303,169	194,582	0	528,035		1,025,787	

Separate Property

Statement	DOM Beginning Balance	Contribution	Other Transactions	Withdrawal/ Loan	Market Return	Market Gain/Loss	Total Gain/Loss	Ending Balance
12/31/1996	76,000	0	0	0	18.55%	14,099	14,099	90,099
12/31/1997	90,099	0	0	0	36.37%	32,769	32,769	122,868
12/31/1998	122,868	0	0	0	9.45%	11,608	11,608	134,476
12/31/1999	134,476	0	0	0	14.71%	19,781	19,781	154,257
12/31/2000	154,257	0	0	0	-8.66%	(13,363)	(13,363)	140,894
12/31/2001	140,894	0	0	0	-9.38%	(13,218)	(13,218)	127,676
12/31/2002	127,676	0	0	0	-18.21%	(23,254)	(23,254)	104,422
12/31/2003	104,422	0	0	0	20.38%	21,278	21,278	125,700
12/31/2004	125,700	0	0	0	8.11%	10,188	10,188	135,888
12/31/2005	135,888	0	0	0	1.42%	1,928	1,928	137,816
12/31/2006	137,816	0	0	0	7.85%	10,816	10,816	148,632
12/31/2007	148,632	0	0	0	0.89%	1,324	1,324	149,956
12/31/2008	149,956	0	0	0	-24.60%	(36,882)	(36,882)	113,074
12/31/2009	113,074	0	0	0	14.56%	16,465	16,465	129,538
12/31/2010	129,538	0	0	0	8.74%	11,321	11,321	140,859
12/31/2011	140,859	0	0	0	0.62%	872	872	141,732
12/31/2012	141,732	0	0	0	8.34%	11,814	11,814	153,546
12/31/2013	153,546	0	0	0	19.36%	29,721	29,721	183,267
12/31/2014	183,267	0	0	0	9.70%	17,775	17,775	201,042
12/31/2015	201,042	0	0	0	-2.12%	(4,254)	(4,254)	196,789
12/31/2016	196,789	0	0	0	9.26%	18,222	18,222	215,011
7/31/2017	215,011	0	0	0	9.65%	20,757	20,757	235,768
		0	0	0		159,768	159,768	



Marital Property

Statement	DOM		Other Transactions	Withdrawal/ Loan	Market Return	Market Gain/Loss	Total Gain/Loss	Ending Balance
	Beginning Balance	Contribution						
12/31/1996	0	5,500	2,000	0	18.55%	1,391	8,891	8,891
12/31/1997	8,891	13,750	5,000	0	36.37%	10,053	28,803	37,694
12/31/1998	37,694	11,000	4,000	0	9.45%	4,979	19,979	57,673
12/31/1999	57,673	12,619	4,443	0	14.71%	10,993	28,055	85,728
12/31/2000	85,728	12,712	3,130	0	-8.66%	(8,799)	7,044	92,772
12/31/2001	92,772	11,000	3,413	0	-9.38%	(10,056)	4,357	97,129
12/31/2002	97,129	11,000	3,851	0	-18.21%	(20,395)	(5,544)	91,585
12/31/2003	91,585	12,500	4,150	0	20.38%	22,055	38,705	130,289
12/31/2004	130,289	13,500	6,692	0	8.11%	12,197	32,389	162,678
12/31/2005	162,678	14,500	8,076	0	1.42%	2,629	25,205	187,883
12/31/2006	187,883	15,500	9,382	0	7.85%	16,698	41,580	229,462
12/31/2007	229,462	16,000	11,059	0	0.89%	2,285	29,344	258,806
12/31/2008	258,806	27,597	11,821	0	-24.60%	(73,349)	(33,931)	224,875
12/31/2009	224,875	19,413	11,433	0	14.56%	37,235	68,081	292,956
12/31/2010	292,956	24,289	11,963	0	8.74%	28,771	65,023	357,979
12/31/2011	357,979	28,431	13,358	0	0.62%	2,476	44,264	402,243
12/31/2012	402,243	31,538	15,246	0	8.34%	37,429	84,212	486,455
12/31/2013	486,455	21,924	15,746	0	19.36%	101,453	139,123	625,578
12/31/2014	625,578	397	18,174	0	9.70%	62,476	81,048	706,626
12/31/2015	706,626	0	21,060	0	-2.12%	(15,396)	5,664	712,290
12/31/2016	712,290	0	10,162	0	9.26%	66,897	77,060	789,350
7/31/2017	789,350	0	424	0	9.65%	76,245	76,669	866,018
		303,169	194,582	0		368,267	866,018	



The Bad - Show Me the Money

- Divorce
- Husband and wife team – auto body shop
- Guess what – they didn't claim all of their income!
- First time that week we heard that claim
- Even more astonishing – we had proof!



8892.⁰⁰

- ① Cindy Britton Tydon - 700.⁰⁰
- ① Wilson Home Dodge Av. - 120.⁰⁰
- ① Kevin Frontier - 320.⁰⁰
- ① Jeff Phelps - 365.⁰⁰
- ① Kenny Tom Spina - 200.⁰⁰
- ① Rivers Eudana - 228.⁰⁰
- ① Brandon Betterman - 40
- ① Sprague Flanagan Gmc. - 50
- ① Kenna White Deuki - 50.⁰⁰
- ① Brandon Brandon Johnson - 80.⁰⁰
- ① Matt Matthews Caliber - 80.⁰⁰
- ① Brandon Phelps Blake Av - 2500.⁰⁰
- ① ~~Brandon Phelps Blake Av - 2500.⁰⁰~~
- ① Wood Benjamin B Coors - 120.⁰⁰
- ① Osborne C/egless - 85.⁰⁰
- ① Nick Wilson - 325.⁰⁰
- ① Ethan Kay "271" - 100.⁰⁰
- ① Lee Miller - parts - 320.⁰⁰
- ① Jack Whithead - Fusion - 60.⁰⁰
- ① Jimmy Porter ^{Basin} Maxima - 60.⁰⁰
- ① Belva Clayton seats - 605.⁰⁰

6085.³²

14,977.32



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**CASH
TAKEN
IN
2013/2014**

The Unusual - The Thickness of a Prison Wall

- “The difference between tax avoidance and tax evasion is the thickness of a prison wall” - Denis Healey
- Divorce—2nd worst case of tax fraud in my career
- Husband owned small financial services co. organized as a “C” Corporation
- Our client, Wife, claimed Husband ran personal expenses through the company
- First time that week we heard that claim



Tax Avoidance or Tax Evasion?

- Husband issued himself a W-2 that averaged \$120,000
- Virtually every credit card charge was written off as business along with club dues, vacations, 3 to 4 personal mortgages, \$400 shirts, call girls
- 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 after my testimony



Tax Avoidance or Tax Evasion?

- We fought tooth and nail to get a backup of QuickBooks (which we eventually received) and downloaded P&L expense drill-down detail
- We had the ability in this case to contact the opposing lawyer directly with our doc and info requests



	Date	Num	Name	Memo	Explanation from Randy A.	Amount	Need Explanation
680 · Miscellaneous Loan Costs							
2	01/05/2015	WTH	Wells Fargo Home Mortgage			3,284.36	3,284.36
3	01/06/2015	WTH	Landmark Bank	1980		0.20	
4	01/13/2015	3736	Crystal S****g			750.00	750.00
5	01/13/2015	3742	Kayla N*****t			1,000.00	1,000.00
6	01/16/2015	WTH	Paragon National Bank			40,000.00	
8	01/20/2015	WTH	Landmark Bank	2496		474.63	
11	02/02/2015	3777	Devin G.			256.96	
12	02/03/2015	WTH	Wells Fargo Home Mortgage			3,284.36	3,284.36
13	02/11/2015	3801	Crystal S****g			500.00	500.00
14	02/20/2015	WTH	Landmark Bank	loan #2496		474.63	
16	02/27/2015	3818	Loan Care Servicing			743.04	
17	02/27/2015	3803	CPC			150.00	150.00
18	03/02/2015	WTH	Bank of America			1,538.40	1,538.40
19	03/03/2015	WTH	Wells Fargo Home Mortgage			3,284.36	3,284.36
20	03/03/2015	WTH	Randy A.	ask randy what name.....cant read on statement		670.18	670.18
22	03/06/2015	3832	We Do Painting & Remodeling	repairs 1489 Pimberton Lane		580.00	
23	03/12/2015	3835	Laura C.	refund		900.00	900.00
25	04/01/2015	WTH	Landmark Bank	loan 1980		755.72	
26	04/02/2015	WTH	Wells Fargo Home Mortgage			3,284.36	3,284.36
27	04/17/2015	3891	Crystal S****g			1,000.00	1,000.00
28	04/20/2015	WTH	Paragon National Bank			1,157.64	
29	04/20/2015	WTH	Landmark Bank	loan 2496		474.63	
33	05/04/2015	WTH	Wells Fargo Home Mortgage			3,284.36	3,284.36
34	05/05/2015	3894	Crystal S****g			1,000.00	1,000.00
35	05/07/2015	3921	Keith E.			150.00	150.00
37	05/20/2015	WTH	Paragon National Bank			1,157.64	
39	05/22/2015	3944	Courtney D.			2,500.00	2,500.00
40	05/22/2015	3941	Crystal S****g			500.00	500.00
42	06/01/2015	WTH	Synchrony Bank			400.00	400.00
44	06/10/2015	3980	Franklin American Mortgage Company			60.00	
45	06/19/2015	4001	Kayla N*****t			800.00	800.00
46	06/22/2015	WTH	Paragon National Bank			1,157.64	
47	06/25/2015	4025	Amy G****n			1,000.00	1,000.00

	As of May 6, Annualized							
	2010	2011	2012	2013	2014	2015	2016	2016
Attorneys Fees	500	0	0	4,600	4,000	6,250	6,831	20,494
Automobile	2,115	3,999	15,521	6,891	6,761	9,066	450	1,350
Charity (Non Deductible)	634	334	1,455	300	1,610	4,680	250	750
Cleaning	0	0	0	0	0	0	0	0
Credit Card Expense	12,758	5,400	6,500	21,235	18,600	20,741	500	1,500
Dues	0	3,716	0	800	6,173	10,388	3,683	11,048
Dues (Non Deductible)	4,044	2,571	1,161	3,818	0	7,046	580	1,741
Employee Benefits	1,364	920	9,641	2,976	34,757	13,193	627	1,881
Entertainment & Meals	0	4,710	18,999	25,823	12,172	14,990	3,818	11,455
Insurance	459	459	230	3,544	2,657	7,116	237	712
Advertising	0	0	0	0	44,794	33,083	5,292	15,875
Miscellaneous	1,500	9,218	14,355	37,282	23,911	2,027	0	0
Miscellaneous Loan Costs	0	0	12,365	32,225	58,782	68,992	20,570	61,709
Office Supplies	14,299	15,086	12,653	23,592	26,390	29,802	5,511	16,532
Rent	14,641	18,928	19,677	13,915	15,125	13,701	4,070	12,209
Repairs	14,068	8,767	15,167	5,840	12,384	9,751	13,119	39,356
Taxes	0	2,704	0	1,200	5,800	10,200	0	0
Travel	3,900	3,200	1,000	4,000	300	600	0	0
Totals	70,282	80,012	128,724	188,041	274,215	261,625	65,537	196,612
W-2 Income Claimed¹	110,000	123,500	130,500	120,000	120,000	120,000	33,900	101,700
Potential Actual Income	180,282	203,512	259,224	308,041	394,215	381,625		298,312
Average of 2012-2015								335,776
Average of 2014 & 2015								387,920
Rounded Down - Figure Used for H's Income								365,000

Common Theme

- Small business owners run personal expenses through the company - Really?
- Get the QuickBooks backup file, user name and password
- QuickBooks supposedly enjoys an 80% market share in 2018
- Always ask for it whether you know they use QB or not – odds are they do



The Good Bad & Unusual - Tarver

“This appeal involves a unique divorce proceeding.”

- Major Issues:
- Was Husband offered incentives by his father to return to work which could make any benefits he received marital?
- Did Husband own 10% of his father’s company?
- Did Husband own 50% of the land AND building that his father titled as joint tenants with the right of survivorship, and was it “early inheritance” and therefore separate ?
- What was Husband’s true income for support?



The Good Bad & Unusual - Tarver

- John Kirk Tarver is the Husband and worked for his father John Taylor Tarver (“Grandfather”) at Shelby Railroad
- Husband was fired and/or left many times over the years; in 2005 he leaves, but Grandfather induces him to return by “putting everything on the table” and if Husband did not return to work at Shelby Grandfather would not continue the business



No Incentives?

- Wife and Husband had a discussion before Husband agreed to return to work to demand an ownership interest in either the company or the real property before he would agree to return
- Husband and Grandfather strongly deny that Husband was offered any incentive for returning to work
- Grandfather was embroiled in an eminent domain issue that was to produce \$3,000,000 but force a move
- Land was acquired and Husband's name was placed on the deed with Grandfather as joint tenants with the right of survivorship



Rent Replaces Salary & Bonus

- In 2010, Shelby began conducting operations from the newly constructed buildings; although there was no written lease, Shelby began paying “rent” to Grandfather and Husband which was substituted for his usual bonuses
- In 2010 Husband and Grandfather were paid rent of \$130,000 per year; 2011, 2012, and 2013 Husband and Grandfather were paid rent of \$180,000 per year
- Thousands of dollars in rent was paid to Husband, but he claims he is not an owner of the land or buildings–Hmmm
- His CPA admitted on the stand that you can’t claim rent or depreciate a property on your tax return that you don’t own



Rent Replaces Salary & Bonus

- Husband was also paid an annual salary and received over \$250,000 per year from Shelby in 2011, 2012, and 2013 classified as a combination of rent and salary payments
- Shelby also either paid directly or reimbursed Husband and Wife for numerous personal expenses, such as the property taxes on their marital residence, uncovered medical expenses, family dining expenses, groceries, clothing, furniture, and personal travel
- Shelby also provided Husband and Wife with vehicles for personal use and paid for all expenses



Spigot Was Turned Off

- None of the personal and vehicle expenses paid by Shelby were taxed to Husband
- Wife files and Grandfather reduced rent to \$2,400 and Husband only received his base salary of \$80,000 with no bonuses and the personal expense spigot was turned off
- Grandfather then took a \$300,000 “bonus” from Shelby and “loaned” money to Husband which he attempted to claim as a marital debt



Rent and Officer Compensation per Income Tax Forms

	2010	2011	2012	2013	2014	2015
<u>Husband</u>						
Total Compensation to H (W-2)	80,000	79,500	76,500	79,500	83,000	84,000
Total Rent to H (Sched E, form 1040)	130,000	180,000	180,000	180,000	0	2,400
	<u>210,000</u>	<u>259,500</u>	<u>256,500</u>	<u>259,500</u>	<u>83,000</u>	<u>86,400</u>
<u>Father*</u>						
Total Compensation to F (W-2)	78,000	0	0	0	300,000	Unknown
Total Rent to F (Sched E, form 1040)	130,000	180,000	180,000	180,000	Unknown	Unknown
	<u>208,000</u>	<u>180,000</u>	<u>180,000</u>	<u>180,000</u>	<u>300,000</u>	<u>0</u>
<u>Totals</u>						
Total Officer Compensation per Form 1120	158,000	79,500	76,500	79,500	383,000	Unknown
Total Rent per Form 1120	304,800	364,800	364,800	364,800	7,549	Unknown
Total Paid to Owner/Officers	<u>462,800</u>	<u>444,300</u>	<u>441,300</u>	<u>444,300</u>	<u>390,549</u>	<u>0</u>

* F's 1040 for 2010 and 2012 are the only ones available. The other years are assumed to be as reported.



Company Ownership

- Trial court found that although some records indicated that Husband owned a 10% interest in Shelby, other records stated that he did not, and the weight of the evidence suggested that he did not
- The Trial court ruled no ownership



Stock Ownership on Form 1120		H=Husband		G=Grandfather		
Year	G @ 90%	H @ 10%	No One @ 10%	G @ 100%	G @ 50%	G @ 51%
1983					Sch E	
1984						Sch E
1985				Sch E		
1986				Missing		
1987				Sch E		
1988				Missing		
1989				Sch E		
1990				Sch E		
1991				Sch E		
1992				Sch E		
1993	1)			Sch E		
1994				Sch E		
1995				Missing		
1996	2)	Sch E		Sch E		
1997		Sch E		Sch E		
1998		Sch E		Sch E		
1999		Sch E		Sch E		
2000		Sch E		Sch E		
2001		Sch E		Sch E		
2002		Sch E		Sch E		
2003		Sch E		Sch E		
2004		Sch E		Sch E		
2005		Sch E		Sch E		
2006		Sch E		Sch E		
2007		Sch E		Sch E		
2008		Sch E		Sch E		
2009		Sch E		Sch E		
2010		Sch E		Sch E		
2011	3)	Sch G & 1125-E	Sch G & 1125-E		Sch G	
2012	3)	Sch G & 1125-E	Sch G & 1125-E			
2013	3)	Sch G & 1125-E	Sch G & 1125-E			
2014				Sch G & 1125-E		

1) H is added as a compensated officer to Sch E

2) F ownership percentage drops from 100% to 90% with no 10% owner identified

3) H is identified as the 10% owner

I Gave Him a Future Inheritance of the Land but Not the Building

- Grandfather acknowledged that Husband had an ownership interest in the land, adding, “I gave him 50 percent of the property” but not the building constructed on it
- Both Husband and Grandfather flatly denied that Husband’s return to work at Shelby had anything to do with his name being placed on the deed and had *no negotiations whatsoever* about Husband’s return to work
- They were attempting to establish a gift or “future inheritance” rather than sweat equity



Nothing to See Here

- On appeal, Husband argues that Grandfather only intended to make a gift to Husband of an interest in the underlying land, not the building
- Husband received 1/2 of the rent from the property and its buildings, and he claimed 1/2 of the depreciation for the buildings on his tax returns
- Trial court found that Husband was a joint owner of the real property and buildings, owning “a half interest” and that Husband acquired his ownership interest in the real property as an incentive to return to work for Shelby; therefore, marital property



Imputed Income

- Trial court imputed income to both Husband and Wife for purposes of alimony and child support and set Husband's income \$188,488 which was close to what I opined
- Trial court noted that Husband's expert had "no major issues" with the calculations made by Wife's expert (me!)
- Appellate court found no error



	2008	2009	2010	2011	2012	2013	2014	2015
--	------	------	------	------	------	------	------	------

Commuting distance roundtrip from Marital residence to Shelby

50 miles per day x 5 days per week x 50 weeks	12,500	12,500	12,500	12,500	12,500	12,500	12,500	12,500
IRS Mileage rate	\$0.505	\$0.550	\$0.500	\$0.555	\$0.555	\$0.565	\$0.560	\$0.575
Personal Usage Value	\$6,313	\$6,875	\$6,250	\$6,938	\$6,938	\$7,063	\$7,000	\$7,188

* **Note that this does not include any vehicle(s) driven by Wife.**

Medical Expense Reimbursement-estimates derived from statistics; BLS Table 2301. Higher income before taxes: Annual expenditure means, shares, standard errors, and coefficients of variation, Consumer Expenditure Survey, 2014.

Households averaging 3.2 persons, income \$150k+

Table 2301 Mean Income Before Taxes

Table 2301 Mean Healthcare Costs

% of Healthcare to Income

	2008	2009	2010	2011	2012	2013	2014	2015
Income Before Adding Medical Reimbursement	\$215,389	\$215,951	\$233,532	\$299,602	\$318,733	\$320,784	\$138,967	\$91,764
% of Healthcare to Income	3.39%	3.39%	3.39%	3.39%	3.39%	3.39%	3.39%	3.39%
Estimated Medical Reimbursement	\$7,306	\$7,325	\$7,922	\$10,163	\$10,812	\$10,881	\$4,714	\$3,113



	2008	2009	2010	2011	2012	2013	2014	2015	3 Year Average
Husband's Base Compensation (W-2)	\$0	\$0	\$79,500	\$79,500	\$76,500	\$79,500	\$83,000	\$78,000	\$78,500
Rent - 3021 Shelby Drive	0	0	130,000	180,000	180,000	180,000	0	2,400	180,000
Interest on CDs			7,688	23,070	45,201	44,723	44,791	Undtrmnd	44,905
Husband's Base Compensation (W-2)	205,500	205,500							
Payments by SRS on Husband's Behalf:									
Personal Expenses-Credit card	3,576	3,576	3,576	3,576	3,576	3,576	3,576	3,576	3,576
Property Taxes on Marital Residence			5,918	5,918	5,918	5,322	Undtrmnd	Undtrmnd	5,719
AT&T Cellphone Expenses	Undtrmnd	Undtrmnd	600	600	600	600	600	600	600
Personal Use of Company Vehicle	6,313	6,875	6,250	6,938	6,938	7,063	7,000	7,188	6,979
Medical Expense Reimbursement	7,306	7,325	7,922	10,163	10,812	10,881	4,714	3,113	10,619
	\$222,695	\$223,276	\$241,454	\$309,764	\$329,544	\$331,665	\$143,681	\$94,876	\$330,898
									\$27,575



Calculation of Husband's Income for Child Support and Alimony (Excludes Interest Income)
Exhibit B (REVISED)

	<u>Notes</u>	<u>Scenario 1</u>	<u>Notes</u>	<u>Scenario 2</u>
Husband's Base Compensation (W-2)	(1)	\$78,500	(1)	\$78,500
Rent 3021 - Shelby Drive	(1)	180,000	(3)	110,965
Payments by SRS on Husband's Behalf:				
Personal Expenses-Credit card	(2)	3,576	(2)	3,576
Property Taxes on Marital Residence	(1)	5,719	(1)	5,719
AT&T Cellphone Expenses	(1)	600	(1)	600
Personal Use of Company Vehicle	(1)	6,979	(1)	6,979
Medical Expense Reimbursement	(1)	<u>10,619</u>	(1)	<u>10,619</u>
 Total Annual Income		 <u><u>\$285,993</u></u>		 <u><u>\$216,958</u></u>
 Monthly		 <u><u>\$23,833</u></u>		 <u><u>\$18,080</u></u>



The Good Bad & Unusual - Lucchesi

- Major Issues:
- Value of Family Business at Date of Marriage
- Husband's True Income for Support Purposes
- Husband's Failure to Preserve the Marital Estate (similar to Dissipation)
- Using Appraisals Made by the County Tax Assessor
- \$950,000 of assets in the division that were undisclosed by Husband that we found



The Good Bad & Unusual - Lucchesi

- Wife age 54; Husband age 62
- Married late in 1994; almost 22 years through 2016
- Husband's family sold local business ("Family Business") for \$11m in 2012; Husband was 1/3 owner and netted \$3.7m in proceeds
- Husband "invested" in many assets after the sale with the proceeds (i.e., claimed these were purchased with separate assets); many were rental properties that were not rented



“Germane to the resolution of the issues”

- “Husband and some of his witnesses lack credibility”
- “Husband has been evasive and less than truthful under oath on multiple occasions”
- “Husband failed to disclose marital assets in other responses to discovery”
- “Husband's antics throughout the trial in this matter caused this court to also question Husband's veracity”
- “Husband frequently had vocal outbursts and made hand gestures to witnesses, including Wife during her testimony”



Sent to Timeout

- “This court **and counsel for Husband** frequently admonished Husband that his behavior was unacceptable in the courtroom, causing the court on one occasion to require Husband to step into the hallway for a period of approximately 15 minutes.”
- “At one point during Wife’s testimony, this court ordered Husband to remove himself from the line of sight of Wife as she testified, required him to sit by the court's clerk for a period of approximately one (1) hour.”



Value of Family Business at Date of Marriage

- Parties stipulated that stock was Husband's separate property at DOM
- Husband and 2 brothers ran the company; he was operations and financial manager and claimed to be a product expert, but, he claims he had little to do with the appreciation in value from DOM to Date of Sale in 2012
- He said all appreciation was market forces due to a brand of product they were allowed to carry
- **Proof showed otherwise**



Value of Family Business at Date of Marriage

- 7 family members owned 100% of stock in 1994 & 1996
- Family business was losing \$ and in a lot of debt in 1996
- We needed to establish the value at or near the date of marriage
- Buried in the dustbin of company records, we found:
- 3 siblings sold out in 1996 under a Stock Purchase Agreement for \$726.39/share implying total co. value of \$735,000
- The company repurchased stock and owed the debt back

<u>Before Buy-Out</u>	<u>Shares</u>	<u>Year Sold</u>	<u>Sale Price</u>	<u>Per Share</u>
Aunt	150.00	1997	\$160,000	\$1,066.67
Brother 1	300.00			
Brother 2	100.00			
Husband	100.00			
Sister 1	100.00	1996	\$75,000	\$750.00
Sister 2	100.00	1996	\$75,000	\$750.00
Brother 3	100.00	1996	\$75,000	\$750.00
Total	<u>950.00</u>			

<u>After Buy-Out in 1996</u>	<u>Shares</u>	<u>Value Per Share</u>	<u>Value</u>
Aunt	0.00		
Brother 1	100.00	\$750.00	\$75,000
Brother 2	100.00	\$750.00	\$75,000
Husband	100.00	\$750.00	\$75,000
Sister 1	0.00		
Sister 2	0.00		
Brother 3	0.00		
Total	<u>300.00</u>		<u>\$225,000</u>



Page 8

1. Q. . . . Okay. And do you recall when y'all did that?
2. A. . . . '96.
3. Q. . . . Okay. And do you recall how much you all
4. . . . paid for that?
5. A. . . . Seventy-five thousand.
6. Q. . . . Okay.
7. A. . . . A person.
8. Q. . . . Okay. Was that an arm's length transaction?
9. A. . . . What do you mean?
10. Q. . . . Meaning did you pay them and did they receive
11. . . . a fair value for their respective ownership interest?
12. A. . . . Well, we didn't pay them out. It was paid
13. . . . within the company over time.
14. Q. . . . Yes, sir. Did that represent what you and
15. . . . they thought to be a fair value for their ownership
16. . . . interest at that time?
17. A. . . . I mean, I don't think that's how they looked
18. . . . at it.
19. Q. . . . You don't think they thought it was fair?
20. A. . . . No. I mean, I -- that's what they wanted, so
21. . . . we were fine with that.
22. Q. . . . Thank you.
23. . . . I'm sorry. If I misunderstand or misspeak,
24. . . . you correct me.
25. A. . . . No, no. Okay.



Value of Family Business at Date of Marriage

- For the 1994 value, Husband's expert produced a Calculation Engagement which he had never done before
- Applied the 2012 transaction multiples from the sale to the financials from 1994 (18 years in the past) which he had never done before either
- Price to Revenues, Price to GP and Price to EBITDA
- He opined on a range of values from \$4.7m to \$1.7m
- Admitted on stand that the 1996 transaction was an “actual transaction” at arm's length and that an actual transaction is a good indicator of value
- **He was a good witness for our side**



Trial Court Rulings

- “Under the market approach, transactions within the company's own stock or owner interest can be used to determine a company's common equity value.”
- “It is clear that both Husband and Wife substantially contributed to the preservation and appreciation of Husband's interest in [Family Business].”
- “This court finds it incredible that the siblings would agree to accept \$75,000 for shares that would realistically have been worth close to \$500,000 based upon [opposing expert's] calculations.”



Trial Court Rulings

- Judge values the stock at DOM at \$75k (my opinion)
- Court found that stock appreciated in value by \$3.7m less the \$75k; and it was all marital
- Huge ruling in our favor as virtually all of the property purchased by Husband with the sale proceeds was marital
- **Appellate court found no error**



Husband's True Income for Support Purposes

- Husband produced draft, unfiled tax returns; we proved he left off hundreds of thousands of dollars of income from these drafts
- Husband turned down employment paying \$100k from the Family Business buyer, but his 2 brothers took similar paying positions with the buyer and still work there; Husband said he could make more as a venture capitalist
- We produced analysis showing income to be \$17k per month; Trial Court ruled he had income of \$27k per month
- **Husband did not appeal this ruling**



Husband's Failure to Preserve the Marital Estate

- Based on the Income & Expenses affidavit filed by Husband only \$400 per month was allocated for groceries and dining out which would amount to \$12,000 during the thirty month period from December 2013 through May 2016
- From our extrapolated calculation, we estimated Husband spent \$20,962 at restaurants, \$7,606 at bars, \$16,372 at liquor stores and \$3,022 at grocery stores for a total of \$47,962
- In our opinion, Husband failed to preserve the marital estate in the amount of \$35,962 (\$47,962-\$12,000)



Husband's Failure to Preserve the Marital Estate

Excessive Spending Analysis

Statements <u>Provided</u>	<u>Restaurants</u>	<u>Bars</u>	<u>Liquor Stores</u>	<u>Walgreens</u>	<u>Grocery Stores</u>	<u>Gas</u>	<u>Memphis 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 Amt Spent	\$20,962	\$7,606	\$16,372	\$11,668	\$3,022	\$5,569	\$6,922	\$34,843	\$106,963

Husband's Failure to Preserve the Marital Estate

➤ **Trial Judge gave us some of this**

<u>Cause of Failure to Preserve</u>	<u>Amount</u>	<u>Marital Balance Sheet Line (Exb. M)</u>
Underemployment	\$250,000	42
H's Excessive Spending	35,962	43
H's Non-Income Producing Real Estate Expenses	136,470	44
Unknown Outgoing Wires	110,000	45
Missing Transfer Balance from Jones Capital	50,799	46
H's Speculative Investments-ABC Energy MS. I. LLC	150,000	23
H's Speculative Investments-California Winery	50,000	37
Total	<u><u>\$783,231</u></u>	



Using Appraisals Made by the County Tax Assessor

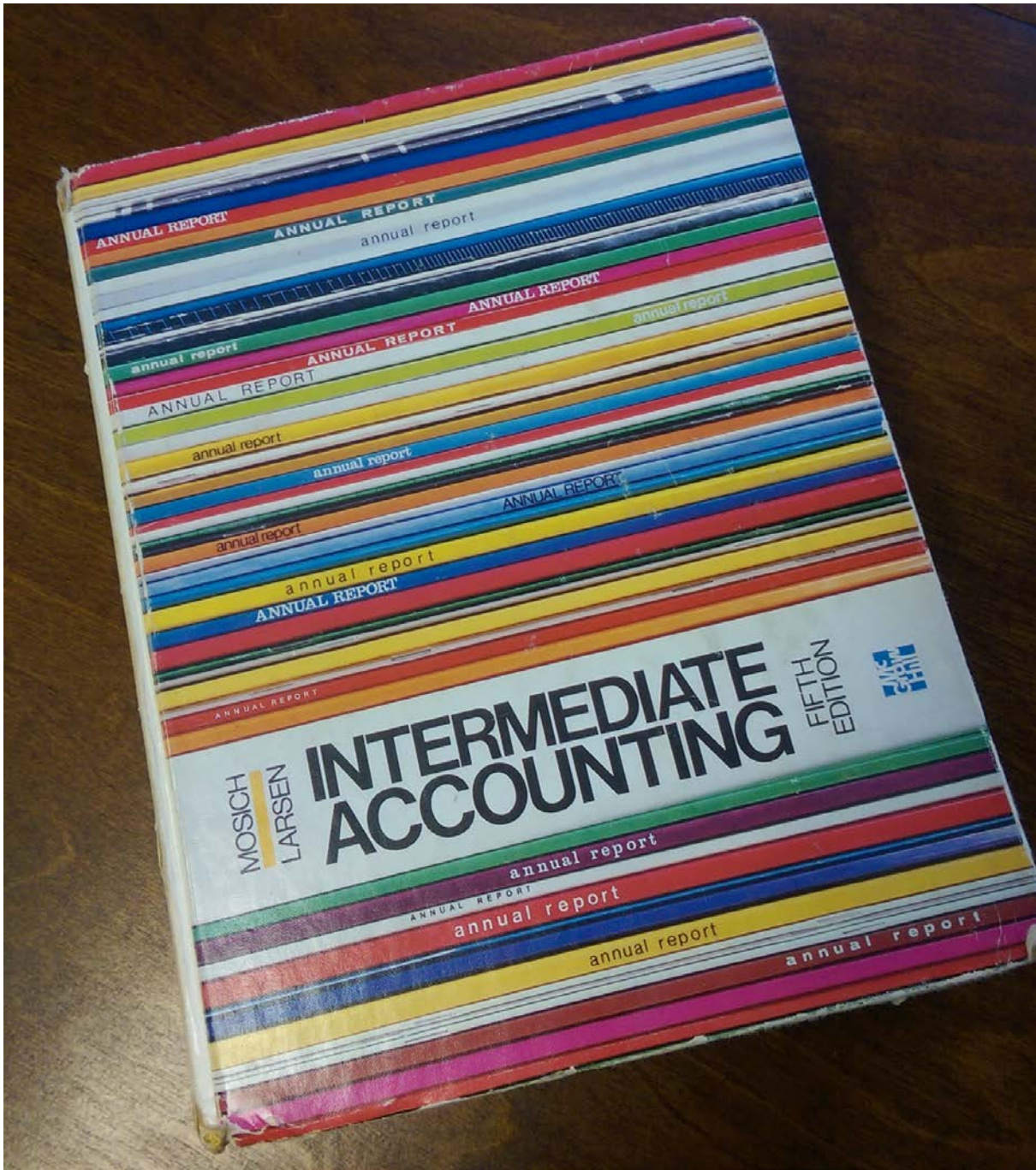
- *Nobody* uses the county assessor's office value
- Vance is not qualified to talk about real estate improvements



Marital Balance Sheet

Exhibit A

No.	Description	Value Date	Title	FMV	Debt	Equity	Child Property or Separate Property	Marital	Proposed Division				Notes
									Husband		Wife		
									%	\$	%	\$	
REAL ESTATE													
1	Marital residence, Collierville, TN 38017	3/18/13	J	365,300									Shelby Co Assessor 2013 Tax Appraisal <i>Wells Fargo Statement</i> <i>Wells Fargo Statement</i>
2	Wells Fargo Mortgage	6/5/13	J		(256,458)								
3	Wells Fargo HELOC	6/5/13	J		(46,907)	61,936		61,936	0.0%	0	100.0%	61,936	
CASH AND INVESTMENTS													
4	First Citizens National Bank Checking	8/31/13	H	0		0		0	0.0%	0	100.0%	0	<i>From FCNB Statement</i>
5	First Citizens National Bank Checking ...	2/5/14	H	1,232		1,232		1,232	0.0%	0	100.0%	1,232	<i>From FCNB Statement</i>
6	Bank of America Savings ...	12/11/13	J	29		29		29	0.0%	0	100.0%	29	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
7	Bank of America Checking ...	12/11/13	J	691		691		691	0.0%	0	100.0%	691	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
8	Bank of America Checking ...	11/7/13	W	161		161		161	0.0%	0	100.0%	161	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
9	Hickory With Bank	10/25/12	J	54		54		54	0.0%	0	100.0%	54	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
10	Safe Deposit Box	???	?	0		0		0	100.0%	0	0.0%	0	
CLOSELY HELD BUSINESSES													
11	Small Business, Inc.	7/8/08	H	178,681		178,681		178,681	100.0%	178,681	0.0%	0	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
RETIREMENT ACCOUNTS													
12	FEDEX Corporation RSP	9/30/13	W	39,539	0	39,539		39,539	0.0%	0	100.0%	39,539	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
13	Minnesota Life IRA	8/29/13	H	35,473	0	35,473		35,473	0.0%	0	100.0%	35,473	<i>From Statement</i>
14	Minnesota Life Simple IRA	8/29/13	H	46,687	0	46,687		46,687	0.0%	0	100.0%	46,687	<i>From Statement</i>
15	Minnesota Life Ins Co LTCare ...	3/14/14	J	0		0		0	0.0%	0	100.0%	0	<i>LT-Care From Statement</i>
16	American Funds ...	3/14/14	H	11,107	0	11,107		11,107	0.0%	0	100.0%	11,107	<i>From Statement</i>
DEBTS													
17	Credit Cards	11/9/13	W		(10,000)	(10,000)		(10,000)	0.0%	0	100.0%	(10,000)	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
18	Credit Cards	1/1/14	H		(42,000)	(42,000)		(42,000)	100.0%	(42,000)	0.0%	0	<i>From W's Ans & Resp to H's ROGS & RFPD</i>
				678,955	(355,364)	323,590	0	323,590		136,681		186,909	
										42.2%		57.8%	



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Using Appraisals Made by the County Tax Assessor

- The court adopted my opinion as to the value of the real estate, which were based on the appraisals made by the respective county tax assessors
- Husband contended that the court erred in adopting these values because Vance “was not qualified in the field of real estate appraisals”
- The appellate court stated: “The testimony of Mr. Vance cited by Husband in his brief does not reveal a lack of trustworthiness in the underlying tax appraisals”
- **Appellate Court upheld trial court ruling**



Marital Balance Sheet

- Trial judge used almost all of the asset values we provided
- Included \$950,000 of assets in the division that were undisclosed by Husband that we found; including the “Unnamed Condo” being depreciated on 2014 tax return
- We sought more information and values from Husband about many assets; which he did not provide
- Appellate Court stated “To adopt Husband’s argument would effectively reward him for his failure to produce the information which was sought by Wife; this court will not countenance such a result.”
- **Appellate court upheld values on most all of the assets, but remanded for more proof on the Unnamed Condo**

Marital Balance Sheet

FAILURE TO DISCLOSE

Exhibit M

No.	Description	Value Date	Title	Gross FMV	Percent Owned	Net FMV	Debt	Equity	Children Property	Marital Property	Proposed Division			
											Husband		Wife	
											%	\$	%	\$
REAL ESTATE														
1	xxxx Tagg Drive, Germantown, TN	12/31/15	J	658,200	100.0%	658,200								
2	Regional Bank Mortgage ...6092	5/31/16	J				(540,296)	117,904	0	117,904	100.0%	117,904	0.0%	0
3	xxxx Forest Hill-Irene Road, Germantown, TN	12/31/15	H	816,600	100.0%	816,600								
4	Small Bank Mortgage	3/25/16	H				(332,295)	484,305	0	484,305	100.0%	484,305	0.0%	0
5	xxx Lookout Drive, Eads, TN	12/31/15	H	95,000	100.0%	95,000		95,000	0	95,000	100.0%	95,000	0.0%	0
6	xxxx Sinsbury Drive, Memphis, TN	12/31/15	H	13,700	100.0%	13,700		13,700	0	13,700	100.0%	13,700	0.0%	0
7	xxx Rustling Oaks Circle, Memphis, TN	12/31/15	H	115,700	100.0%	115,700		115,700	0	115,700	100.0%	115,700	0.0%	0
8	xxxx Snowden Avenue, Memphis, TN	12/31/15	H	54,900	100.0%	54,900		54,900	0	54,900	100.0%	54,900	0.0%	0
9	xxxx Carnes Avenue, Memphis, TN (80%)	12/31/15	H	44,000	80.0%	35,200		35,200	0	35,200	100.0%	35,200	0.0%	0
10	Cheatham Co Property	12/31/15	H	92,000	100.0%	92,000		92,000	0	92,000	100.0%	92,000	0.0%	0
SEPARATE PROPERTY														
11	Adjustment for Delta Value at DOM			(75,000)	100.0%	(75,000)		(75,000)	0	(75,000)	100.0%	(75,000)	0.0%	0
CASH AND INVESTMENTS														
12	ATLED Investments	12/31/15	H											
13	xx Britney Cove Counce TN		H	175,000	33.3%	58,333	(41,667)	16,667	0	16,667	100.0%	16,667	0.0%	0
14	xxxx Quince #6		H	67,500	33.3%	22,500	0	22,500	0	22,500	100.0%	22,500	0.0%	0
15	xxxx Quince #12		H	52,500	33.3%	17,500	0	17,500	0	17,500	100.0%	17,500	0.0%	0
16	Unnamed Condo per 2014 tax return		H	60,000	33.3%	20,000	0	20,000	0	20,000	100.0%	20,000	0.0%	0
17	xxx Rozelle (Delta Building)		H	725,000	33.3%	241,667	(112,145)	129,522	0	129,522	100.0%	129,522	0.0%	0
18	xxx Rozelle (Lot)		H	25,000	33.3%	8,333	0	8,333	0	8,333	100.0%	8,333	0.0%	0
19	Mortgage on xxxx Kingham (Deed of Trust, Best Friend Trustee)		H		50.0%	0	0	0	0	0	100.0%	0	0.0%	0
20	Stone Creek Rentals, LLC - First TN 3121	3/31/16	H	108,579	50.0%	54,290	0	54,290	0	54,290	100.0%	54,290	0.0%	0
21	LT Investments Funding (75%)	12/31/15	H	488,766	100.0%	488,766	0	488,766	0	488,766	100.0%	488,766	0.0%	0
22	Miracle xxxxxxxx Royalties		H	175,000	35.0%	61,250	0	61,250	0	61,250	100.0%	61,250	0.0%	0
23	CGN Energy MS. I. LLC	7/23/14	H	150,000	100.0%	150,000	0	150,000	0	150,000	100.0%	150,000	0.0%	0
24	Investec - xxxx Union Avenue		H	50,000	100.0%	50,000	0	50,000	0	50,000	100.0%	50,000	0.0%	0
25	Regions Bank Checking ...6111	5/31/16	W	100	100.0%	100	0	100	0	100	0.0%	0	100.0%	100
26	BigBank Checking ...3983	4/27/16	H	3,514	100.0%	3,514	0	3,514	0	3,514	0.0%	0	100.0%	3,514
27	BigBank Checking ...8545	6/7/16	H	3,663	100.0%	3,663	0	3,663	0	3,663	0.0%	0	100.0%	3,663
28	BigBank MM ...9342	5/26/16	H	777	100.0%	777	0	777	0	777	0.0%	0	100.0%	777
29	BigBank ...7337 (Custom Coatings)	5/31/16	H	3,357	100.0%	3,357	0	3,357	0	3,357	0.0%	0	100.0%	3,357
30	BigBank Checking....5129	4/27/16	H	450,049	100.0%	450,049	0	450,049	0	450,049	0.0%	0	100.0%	450,049
31	Small Bank MM ...8874	5/15/16	H	984	100.0%	984	0	984	0	984	0.0%	0	100.0%	984
32	Northern Security FCU ...3690	1/31/16	H	134,335	100.0%	134,335	0	134,335	0	134,335	0.0%	0	100.0%	134,335
33	Regional Bank Checking ...3239	4/30/16	H	4,515	100.0%	4,515	0	4,515	0	4,515	0.0%	0	100.0%	4,515
34	Bank of Bartlett	5/19/16	H	2,030	100.0%	2,030	0	2,030	0	2,030	0.0%	0	100.0%	2,030
35	Wirehouse Brokerage ...6040	2/29/16	H	2,184,808	100.0%	2,184,808	0	2,184,808	0	2,184,808	12.0%	262,177	88.0%	1,922,631
36	Local Planner - Cetera	2/29/16	H	60,102	100.0%	60,102	0	60,102	0	60,102	0.0%	0	100.0%	60,102
37	ComerStone Winery	12/31/15	H	50,000	100.0%	50,000	0	50,000	0	50,000	100.0%	50,000	0.0%	0
38	UBS ...369T1	3/31/16	H	17,255	100.0%	17,255	0	17,255	0	17,255	0.0%	0	100.0%	17,255
39	IRS Deposit	5/31/16	J	450,000	100.0%	450,000	(450,000)	0	0	0	0.0%	0	100.0%	0
40	LGR Beverage Group		H	25,000	100.0%	25,000	0	0	0	0	100.0%	0	0.0%	0
41	Delta LLC		H	300,000	33.33%	100,000	0	100,000	0	100,000	100.0%	100,000	0.0%	0

FAILURE TO PRESERVE THE MARITAL ESTATE / UNKNOWN DISBURSEMENTS												
42	Underemployment		H	250,000	0	250,000	0	250,000	100.0%	250,000	0.0%	0
43	H's Excessive Spending		H	35,962	0	35,962	0	35,962	100.0%	35,962	0.0%	0
44	H's Non-Income Producing Real Estate Expenses		H	136,470	0	136,470	0	136,470	100.0%	136,470	0.0%	0
45	Unknown Outgoing Wires		H	110,000	0	110,000	0	110,000	100.0%	110,000	0.0%	0
46	Missing Transfer Balance from Baner Capital	4/1/16	H	50,799	0	50,799	0	50,799	100.0%	50,799	0.0%	0
RETIREMENT ACCOUNTS												
47	BigBank 401(k) ...2149	03/31/16	H	105,233	0	105,233	0	105,233	0.0%	0	100.0%	105,233
48	Regional Bank IRA ...2979	6/30/15	H	13,090	0	13,090	0	13,090	0.0%	0	100.0%	13,090
49	State of Tennessee (TN Consolidated)	6/30/15	W	1	0	1	0	1	0.0%	0	100.0%	1
50	Kansas City Life SEP ...0043	12/31/13	H	11,516	0	11,516	0	11,516	0.0%	0	100.0%	11,516
51	John Hancock Education Trust (2 accounts)	12/31/12	H	75,382	0	75,382	75,382	0	50.0%	0	50.0%	0
PERSONAL PROPERTY												
52	2008 Mercedes SC500		H	22,154		22,154	0	22,154	100.0%	22,154	0.0%	0
53	2008 Lincoln Navigator		W	8,000		8,000	0	8,000	0.0%	0	100.0%	8,000
54	Home Furnishings		J	25,000		25,000	0	25,000	50.0%	12,500	50.0%	12,500
55	H's Watches		H	8,500		8,500	0	8,500	100.0%	8,500	0.0%	0
INSURANCE												
56	Kansas City Life Annuity ...5714	5/23/16	H	4,271		4,271	0	4,271	100.0%	4,271	0.0%	0
57	Kansas City Life Annuity ...8007	5/23/16	H	9,883		9,883	0	9,883	100.0%	9,883	0.0%	0
58	West Coast (Protective Ins. Co. Annuity) xxxx0009	5/23/16	H	127,232		127,232	0	127,232	100.0%	127,232	0.0%	0
DEBTS												
59	Morgan Stanley Portfolio Loan ...9549	2/29/16	H	(680,264)	(680,264)	0	(680,264)	100.0%	(680,264)	0.0%	0	
60	Discover ...6065		W	(10,000)	(10,000)	0	(10,000)	0.0%	0	100.0%	(10,000)	
61	Memphis Teachers Credit Union Visa		J	(5,800)	(5,800)	0	(5,800)	100.0%	(5,800)	0.0%	0	
62	Due to FVS, PLC	6/23/16	W	(50,000)	(50,000)	0	(50,000)	0.0%	0	100.0%	(50,000)	
										2,446,420		2,693,650
										47.6%		52.4%



Be Careful What You Ask For

- The trial court found that Wife had a monthly need of approximately \$12,000 but had earning potential of \$2,500
- Husband clearly had the ability to earn far more money
- Trial court ruled he had income of \$27k per month
- The trial court found that Wife would deplete her share of the marital estate unless she was awarded some form of alimony, did not consider whether an award of short term alimony would be appropriate
- In lieu of Husband paying alimony *in futuro* to Wife, the court ordered Husband to pay Wife the sum of \$200,000 in one lump-sum payment as alimony *in solido*



Be Careful What You Ask For

- Husband appealed the alimony *in solido* of \$200k as excessive and Wife appealed the alimony as insufficient
- Appellate court agreed with Wife
- The award of alimony *in solido* should be **increased to \$300k** to cover the amount of attorney's fees and costs Wife incurred
- Also remanded so as to determine whether an award of rehabilitative and/or transitional alimony would be appropriate
- If not, the trial court should consider an **additional award** of long term support, in light of Wife's demonstrated need



Affirmations from the Lucchesi Decision (in TN)

- An arm's length “actual transaction” of stock sold between family members can be considered proof of value
- An expert witness and counsel should consider the practical aspect of claiming that siblings would agree to accept \$75,000 for shares that would have been theoretically worth close to \$500,000 based upon your calculations
- No Calculation Engagement for a case that is going to trial
- A party that turns down a job offer for \$100,000 with claims of being able to make more with their “venture capitalism” should actually go about earning that money and not invest in rental properties that produce no rent



Affirmations from the Lucchesi Decision (in TN)

- Using values of real estate from the county tax assessor's appraisal is sufficient and usable at trial if the party in control of the asset offers no written proof of value
- An expert witness is not required to be a certified real estate appraiser if offering proof of the value of real estate from the county tax assessor's appraisal
- It is not unreasonable for an expert witness to use the cost of an asset or investment if the party that bought it refuses to offer proof of its existence
- A party will probably be assessed attorney's fees and expert witness costs if he fails to disclose \$950,000 of marital assets the expert ultimately uncovers



Thank You!

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



Forensic & Valuation Services, PLC

901-507-9173

www.forensicval.com

rvance@forensicval.com

