

What is “Forensic Accounting” And Will It Help My Case?

Presented by:

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



Forensic & Valuation Services, PLC

901-507-9173

www.ForensicVal.com

rvance@ForensicVal.com

What is a “Forensic” CPA?

- The next few slides were borrowed from *The Forensic Accounting Deskbook* by Miles Mason, Sr., JD, CPA (ABA – on Amazon.com)
- “Applying specialized knowledge and investigative skills to collect, analyze and evaluate a financial situation, then communicate those findings in a courtroom, boardroom or other venue”*

* The Accountant’s CSI: A Forensic Credential for CPAs

What is a “Forensic” CPA?

- “The art and science of investigating people and money”*
- fo·ren·sic adj \fə-'ren(t)-sik, -'ren-zik\
 - 1. belonging to, used in, or suitable to courts of judicature or to public discussion and debate
 - 2. argumentative, rhetorical
 - 3. relating to or dealing with the application of scientific knowledge to legal problems#

* Darrell Dorrell – forensic CPA from Oregon

www.merriam-webster.com

Services Provided

Business Valuation

- Divorce
- Estate & Gift
- Merger & Acquisition Transactions
- Purchase Price Allocations

Services Provided

Divorce Analysis

- Property Division
- Alimony Need & Ability to Pay
- Defined Benefit Pension Valuation
- Separate Property
- Dissipation

Services Provided

Divorce Analysis

- Comingling & Asset Tracing
- Mediation of Complex Financial Issues
- Business Valuation
- Special Master

Services Provided

Forensic Economics - Damages for Plaintiffs & Defendants

- Personal Injury, Wrongful Death & Wrongful Termination Loss of Earning Capacity
- Insurance Defense
- Commercial Litigation
- Breach of Contract
- Loss Profits

Services Provided

Fraud & Theft

- Embezzlement & Employee fraud
- GAAP violations
- Check kiting
- Contract and procurement fraud
- Asset misappropriation
- Bankruptcy fraud
- Credit card fraud

Services Provided

Expert Witness Testimony

- May be very smart, but be a terrible witness
- Must be a good listener and confident to stick to their message
- Must think on their feet / good speaking skills
- Must be familiar with the legal process
- Must know their own standards
- Know that it's okay to say: "I don't know"
- No diarrhea of the mouth

Selling Your Client on 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

* *The Forensic Accounting Deskbook*

Discovery Process

Hire a Forensic CPA Early in the Process

- RPD
- Interrogatories
- Evaluating Early (sometimes crazy) Offers
- Avoid a Claim of Malpractice - Don't Show up to the Beauty Contest Without a Swimsuit!

Business Valuation

Estimation of two primary components

- Present Value of the future expected benefits
 - The Time Value of Money; a dollar today is worth more than a dollar in one year
- The risk related to receiving those future expected benefits

Business Valuation-FMV

Definition of Fair Market Value per IRS Revenue Ruling 59-60

“The price at which a property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell and both parties have reasonable knowledge of the relevant facts.”

Business Valuation-Approaches

- **Asset Approach**
 - Think of a balance sheet; Identifiable Tangible & Intangible Assets Adjusted to FMV – Liabilities
- **Market Approach**
 - Think of this as being similar to pricing your home for sale using comps in the neighborhood
- **Income Approach**
 - Net present value of expected future cash flow, with the discount rate being risk adjusted

Business Valuation-Keys

- A business is really only worth the present value of the cash flow over and above a “normal” owner compensation
- What is “normal”?
- How do they make their money, i.e. “value drivers”
- Size does matter-how many owner & staff?
- Branding
- Ancillary Services & Machines

Business Valuation-Branding & Value Drivers

**Fred Jones, Jr., DDS
d/b/a Mid-South Smiles Factory**



Business Valuation-Branding & Value Drivers



Fred Jones, Sr., DDS





Divorce Analysis

Marital Estate

- Identify
- Classify
- Quantify

Support

- Need
- Ability to Pay

Marital Estate - Identify & Classify

Forensic Examinations

- Finding “Hidden” Assets and Sources of Income or “True” Income for Support
- Separate vs. Marital property identification
 - Comingling
 - Transmutation
 - Completed Gift
- Dissipation search & documentation

Marital Estate - Quantify

Assets & Liabilities

- See TBA article: “Breakin’ Up is Hard to Do”
 - It’s on my website of course
- Compiling a Marital Balance Sheet
- Pensions & Retirement plan valuation
- Alimony Need & Ability to Pay Analysis



Marital Estate - Quantify

Alimony Need & Ability to Pay Analysis

- TCA 36-5-121(i) [the 12 alimony factors]

(8) The provisions made with regard to the marital property, as defined in § 36-4-121;

- Marital Balance Sheet

Marital Estate - Quantify

Alimony Need & Ability to Pay Analysis

- TCA 36-5-121(b)

...In making any order under this subsection (b), the court shall consider the financial needs of each spouse and the financial ability of each spouse to meet those needs and to prosecute or defend the suit.

Marital Estate - Quantify

Alimony Need & Ability to Pay Analysis

- TCA 36-5-121(i) [the 12 alimony factors]

(1) The relative earning capacity, obligations, needs, and financial resources of each party, including income from pension, profit sharing or retirement plans and all other sources;

(9) The standard of living of the parties established during the marriage;

Marital Estate - Quantify

Alimony Need & Ability to Pay Analysis

- TCA 36-5-121(f)(1)

Alimony in futuro...may be awarded when the court finds that there is relative economic disadvantage and that rehabilitation is not feasible, meaning that the disadvantaged spouse is unable to achieve, with reasonable effort, an earning capacity that will permit the spouse's **standard of living after the divorce** to be reasonably comparable to the standard of living **enjoyed during the marriage**, or to the **post-divorce standard of living expected to be available to the other spouse**, considering the relevant statutory factors and the equities between the parties.

Smith v. Smith
Marital Balance Sheet
4/30/10

No.	Description	Title	FMV	Debt	Equity	Child or Separate Account	Marital	Proposed Division		Notes
								Husband	Wife	
<u>REAL ESTATE</u>										
1	Marital Residence-4567 Main St.	J	550,000				0			Appraisal dated 11/30/09
2	Marital Residence-Mortgage #05-227	J		(415,000)						
3	Less Est Selling Costs			(35,000)	100,000		100,000	50,000	50,000	Statement dated 2/28/10
<u>CASH & INVESTMENTS</u>										
4	Checking Account #5689	H	25,000		25,000		25,000	12,500	12,500	Statement dated 2/28/10
5	Checking Account #9876	W	12,000		12,000		12,000		12,000	Statement dated 2/28/10
6	Fidelity Account #6789	J	215,000		215,000		215,000		215,000	Statement dated 2/28/10
7	eTrade Account #2589	H	35,000		35,000		35,000	35,000		Statement dated 2/28/10
8	Children's 529 Accounts		50,000		50,000	50,000	0	0	0	Statement dated 2/28/10
<u>RETIREMENT</u>										
9	ABC Co. Pension Plan #AB-123	H	370,000		370,000		370,000	370,000		PV of future benefits as of 1/31/10
10	Company 401(k) Plan #XY-9876	H	155,000		155,000		155,000		155,000	Statement dated 2/28/10
11	Company 401(k) Plan #XY-1234	W	75,000		75,000		75,000		75,000	Statement dated 2/28/10
12	IRA #02-3456	H	28,000		28,000		28,000	28,000		Statement dated 2/28/10
13	IRA II #98-7654	H	100,000		100,000		100,000		100,000	Statement dated 2/28/10
<u>PERSONAL PROPERTY</u>										
14	2002 Mercedes	J	21,000							
15	Less Car Note	J		0	21,000		21,000	21,000		NADA Average retail value as of 1/31/10
16	2004 Toyota	W	18,000							
17	Less Car Note	W		0	18,000		18,000		18,000	NADA Average retail value as of 1/31/10
18	Personal Property	J	40,000		40,000		40,000	20,000	20,000	H & W Estimate
19	Husband's Dissipation of Marital Assets	H	10,000		10,000		10,000	10,000		CPA Analysis
<u>OTHER DEBTS</u>										
19	Visa #4529	J		(12,000)	(12,000)		(12,000)	(12,000)		Per statement as of 3/31/10
20	Amex #1234	W		(15,500)	(15,500)		(15,500)	(15,500)		Per statement as of 3/31/10
21	Discover #6549	W		(9,700)	(9,700)		(9,700)	(9,700)		Per statement as of 3/31/10
TOTALS			1,704,000	(487,200)	1,216,800	50,000	1,166,800	509,300	657,500	
								43.6%	56.4%	

Smith v. Smith
Wife's Need for Support
4/30/10

(A)	(B)	(C) +	(D) -	(E) -	(F) +	(G) +	(H) +	(I) +	(J) =	(K) -	(L) =	(M) -	(N) -	(O) =	(P) =	(Q) *
Year	Age	Employment Earnings 2.0% COLA	FICA	Retirement Deductions	Child Support	Draws From Retirement	Social Security 2.5% COLA	Principal Draws From Investments	Total Income	Federal Income Tax	Net Disposable Income	Mortgage Prin & Int	Personal Living Exp. 2.5% Inflation	Annual (Deficit) or Surplus	Monthly (Deficit) or Surplus	Monthly Alimony Need
1	48	45,000	(3,443)	(15,000)	38,400	0	0	0	64,958	(12,941)	52,016	(23,400)	(85,588)	(56,972)	(4,748)	5,000
2	49	45,900	(3,511)	(15,000)	25,200	0	0	12,000	64,589	(16,967)	47,621	(23,400)	(87,728)	(63,507)	(5,292)	5,000
3	50	46,818	(3,582)	(15,000)	25,200	0	0	14,000	67,436	(17,678)	49,758	(23,400)	(89,921)	(63,563)	(5,297)	5,000
4	51	47,754	(3,653)	(15,000)	0	0	0	24,000	53,101	(18,341)	34,760	(23,400)	(74,724)	(63,364)	(5,280)	5,000
5	52	48,709	(3,726)	(15,000)	0	0	0	25,000	54,983	(18,816)	36,168	(23,400)	(76,592)	(63,824)	(5,319)	5,000
6	53	49,684	(3,801)	(15,000)	0	0	0	26,000	56,883	(19,242)	37,641	(23,400)	(78,506)	(64,265)	(5,355)	5,000
7	54	50,677	(3,877)	(15,000)	0	0	0	27,000	58,800	(19,619)	39,181	(23,400)	(80,469)	(64,688)	(5,391)	5,000
8	55	51,691	(3,954)	(15,000)	0	0	0	28,000	60,737	(19,946)	40,790	(23,400)	(82,481)	(65,090)	(5,424)	5,000
9	56	52,725	(4,033)	(15,000)	0	0	0	30,000	63,691	(20,222)	43,470	(23,400)	(84,543)	(64,473)	(5,373)	5,000
10	57	53,779	(4,114)	(15,000)	0	0	0	31,000	65,665	(20,444)	45,221	(23,400)	(86,656)	(64,835)	(5,403)	5,000
11	58	54,855	(4,196)	(15,000)	0	0	0	34,000	69,658	(22,724)	46,935	(23,400)	(88,823)	(65,288)	(5,441)	5,000
12	59	55,952	(4,280)	(15,000)	0	75,000	0	0	111,672	(43,551)	68,121	(23,400)	(91,043)	(46,323)	(3,860)	5,000
13	60	0	0	0	0	150,000	0	1,000	151,000	(36,733)	114,267	(23,400)	(93,319)	(2,453)	(204)	0
14	61	0	0	0	0	150,000	0	3,000	153,000	(36,901)	116,099	(23,400)	(95,652)	(2,953)	(246)	0
15	62	0	0	0	0	150,000	0	6,000	156,000	(37,034)	118,966	(23,400)	(98,044)	(2,478)	(207)	0
16	63	0	0	0	0	150,000	0	8,000	158,000	(37,130)	120,870	(23,400)	(100,495)	(3,025)	(252)	0
17	64	0	0	0	0	150,000	0	11,000	161,000	(37,186)	123,814	(23,400)	(103,007)	(2,593)	(216)	0
18	65	0	0	0	0	150,000	15,000	2,000	167,000	(40,769)	126,231	(23,400)	(105,582)	(2,752)	(229)	0
19	66	0	0	0	0	150,000	15,375	4,000	169,375	(41,032)	128,343	(23,400)	(108,222)	(3,279)	(273)	0
20	67	0	0	0	0	150,000	15,759	6,000	171,759	(41,264)	130,496	(23,400)	(110,927)	(3,832)	(319)	0
21	68	0	0	0	0	150,000	16,153	0	166,153	(41,460)	124,693	0	(113,701)	10,993	916	0
22	69	0	0	0	0	150,000	16,557	0	166,557	(42,042)	124,515	0	(116,543)	7,972	664	0
23	70	0	0	0	0	150,000	16,971	0	166,971	(42,605)	124,367	0	(119,457)	4,910	409	0
24	71	0	0	0	0	150,000	17,395	0	167,395	(43,143)	124,252	0	(122,443)	1,809	151	0
25	72	0	0	0	0	150,000	17,830	0	167,830	(43,657)	124,174	0	(125,504)	(1,331)	(111)	0
26	73	0	0	0	0	150,000	18,276	0	168,276	(44,143)	124,133	0	(128,642)	(4,508)	(376)	0
27	74	0	0	0	0	150,000	18,733	3,000	171,733	(44,598)	127,135	0	(131,858)	(4,723)	(394)	0
28	75	0	0	0	0	150,000	19,201	6,000	175,201	(45,020)	130,181	0	(135,154)	(4,973)	(414)	0
29	76	0	0	0	0	150,000	19,681	9,000	178,681	(45,406)	133,275	0	(138,533)	(5,258)	(438)	0
30	77	0	0	0	0	150,000	20,173	12,000	182,173	(45,753)	136,420	0	(141,997)	(5,577)	(465)	0
31	78	0	0	0	0	150,000	20,678	15,000	185,678	(46,058)	139,620	0	(145,546)	(5,927)	(494)	0
32	79	0	0	0	0	150,000	21,195	18,000	189,195	(46,317)	142,878	0	(149,185)	(6,307)	(526)	0
33	80	0	0	0	0	150,000	21,724	22,000	193,724	(46,526)	147,198	0	(152,915)	(5,717)	(476)	0
34	81	0	0	0	0	150,000	22,268	25,000	197,268	(46,683)	150,585	0	(156,738)	(6,153)	(513)	0
35	82	0	0	0	0	150,000	22,824	28,000	200,824	(46,782)	154,043	0	(160,656)	(6,613)	(551)	0
		603,544	(46,171)	(180,000)	88,800	3,525,000	335,795	430,000	4,756,968	(1,228,732)	3,528,236	(468,000)	(3,861,195)	(800,960)		

Forensic Economics - Damages for Plaintiffs & Defendants

- Personal Injury
- Wrongful Death
- Wrongful Termination

Forensic Economics - Damages for Plaintiffs & Defendants

Essential Elements

- Loss of Earning Capacity that would have been earned as compensation, less mitigating earnings still able to produce, if any
- Loss of Fringe Benefits that are part of the occupation
- Loss of Household Services that would have been performed, less services still able to perform

Forensic Economics - Damages for Plaintiffs & Defendants

Essential Elements

- Medical & Rehabilitation Bills incurred in the past plus estimates of future bills from a Life Care Plan
- Discount all Losses to Present Value, usually to the Trial Date

Timeline

Loss of Earning Capacity & Loss of Fringe Benefits



Timeline

Loss of Earning Capacity & Loss of Fringe Benefits

Injury
Date

Trial
Date



Past or
Pre-Trial

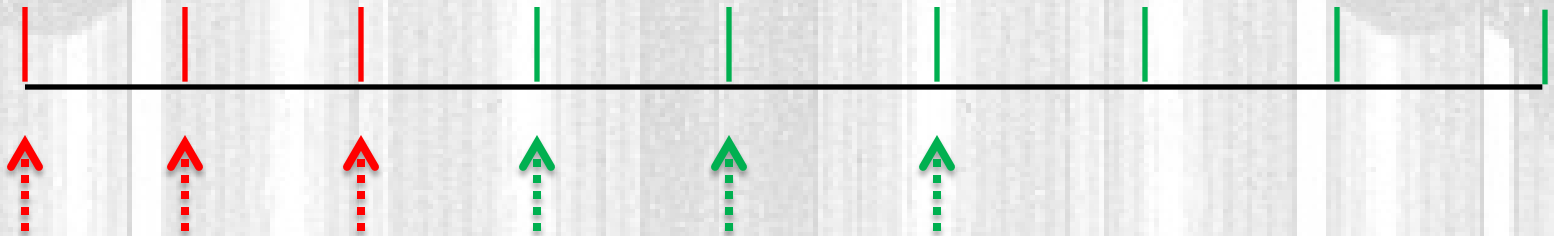
Timeline

Loss of Earning Capacity & Loss of Fringe Benefits

Injury
Date

Trial
Date

Worklife
Expectancy



Past or
Pre-Trial

Future or
Post-Trial

Timeline

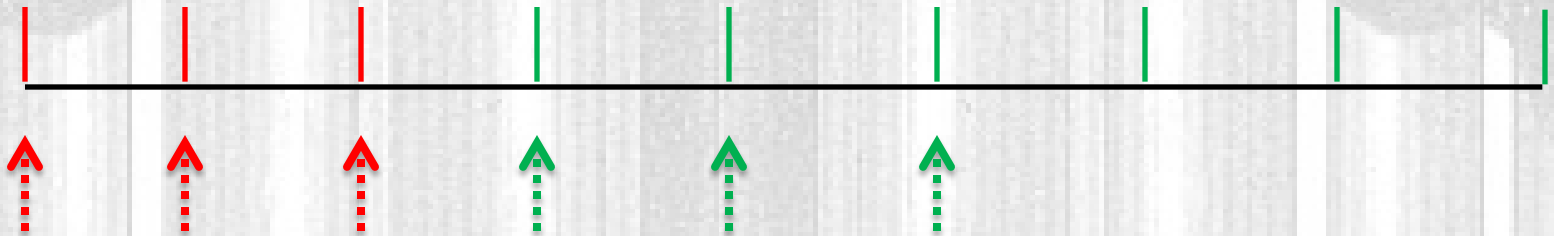
Loss of Earning Capacity & Loss of Fringe Benefits

Loss of Household Services & Medical Bills

Injury
Date

Trial
Date

Worklife
Expectancy



Past or
Pre-Trial

Future or
Post-Trial

Timeline

Loss of Earning Capacity & Loss of Fringe Benefits

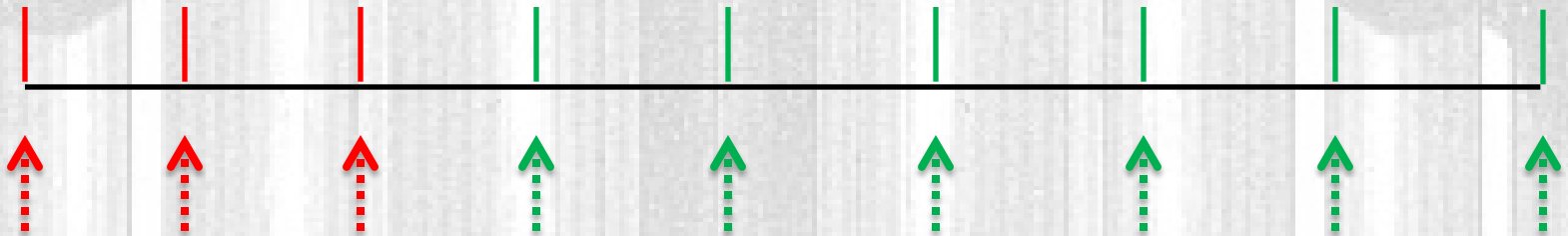
Loss of Household Services & Medical Bills

Injury
Date

Trial
Date

Worklife
Expectancy

Life
Expectancy



Past or
Pre-Trial

Future or
Post-Trial

Lost Earnings, Fringe Benefits, Household Services and Future Medical Costs

Exhibit A

Pre-Trial				Earnings				Fringe Benefits				Household Services		Total Annual Loss		
Year	Pres. Value	Net Earnings	Net Discount	Plaintiff Would Have Earned	Personal Cons. See Ex. B	Earnings Loss	Earnings Pres. Value	Plaintiff Would Have Earned	Plaintiff Did/Will Earn	Fringe Benefit Loss	Fringe Benefit Pres. Value	Service Value Loss	Service Pres. Value	Total Loss	Pres. Value	Bal. Pres. Val.
Ending Year		Growth	Rate	Earned	See Ex. B	Loss	Pres. Value	Earned	Earn	Loss	Pres. Value	Loss	Pres. Value	Total Loss	Total Loss	Total Loss
12/31/2011	0	3.1%	1.80%	36,894	(7,159)	29,735	29,735	13,319	0	13,319	13,319	3,040	3,040	46,093	46,093	46,093
12/31/2012	0	3.1%	0.00%	105,659	(20,502)	85,157	85,157	38,143	0	38,143	38,143	8,443	8,443	131,743	131,743	177,836
04/13/2013	0	3.1%	1.80%	30,502	(5,842)	24,660	24,660	11,011	0	11,011	11,011	2,388	2,388	38,059	38,059	215,895
Total Pre-Trial				173,054	(33,503)	139,551	139,551	62,473	0	62,473	62,473	13,871	13,871	215,895	215,895	
Post-Trial																
04/13/2014	1	1.0%	1.80%	112,311	(21,328)	90,983	89,374	40,544	0	40,544	39,827	8,615	8,463	140,142	137,664	353,559
04/13/2015	2	1.0%	1.80%	113,434	(21,541)	91,893	88,672	40,950	0	40,950	39,514	8,701	8,396	141,544	136,582	490,141
04/13/2034	21	1.0%	1.80%	137,040	(37,746)	99,294	68,268	49,471	0	49,471	34,013	10,511	7,227	159,276	109,509	2,775,538
04/13/2035	22	1.0%	1.80%	49,828	(13,724)	36,104	24,384	17,988	0	17,988	12,149	10,618	7,171	64,710	43,704	2,819,242
04/12/2036	23	0.0%	1.80%	0	0	0	0	0	0	0	0	17,538	11,635	17,538	11,635	2,830,877
04/13/2037	24	0.0%	1.80%	0	0	0	0	0	0	0	0	17,714	11,544	17,714	11,544	2,842,421
04/13/2038	25	0.0%	1.80%	0	0	0	0	0	0	0	0	17,889	11,452	17,889	11,452	2,853,874
04/13/2039	26	0.0%	1.80%	0	0	0	0	0	0	0	0	18,065	11,360	18,065	11,360	2,865,234
04/12/2040	27	0.0%	1.80%	0	0	0	0	0	0	0	0	18,240	11,268	18,240	11,268	2,876,502
04/13/2041	28	0.0%	1.80%	0	0	0	0	0	0	0	0	18,428	11,183	18,428	11,183	2,887,684
04/13/2042	29	0.0%	1.80%	0	0	0	0	0	0	0	0	18,615	11,096	18,615	11,096	2,898,781
04/13/2043	30	0.0%	1.80%	0	0	0	0	0	0	0	0	18,802	11,010	18,802	11,010	2,909,790
04/12/2044	31	0.0%	1.80%	0	0	0	0	0	0	0	0	18,989	10,922	18,989	10,922	2,920,713
04/13/2045	32	0.0%	1.80%	0	0	0	0	0	0	0	0	19,176	10,835	19,176	10,835	2,931,548
04/13/2046	33	0.0%	1.80%	0	0	0	0	0	0	0	0	19,364	10,748	19,364	10,748	2,942,295
04/13/2047	34	0.0%	1.80%	0	0	0	0	0	0	0	0	19,562	10,666	19,562	10,666	2,952,961
04/12/2048	35	0.0%	1.80%	0	0	0	0	0	0	0	0	19,761	10,584	19,761	10,584	2,963,545
04/13/2049	36	0.0%	1.80%	0	0	0	0	0	0	0	0	19,960	10,501	19,960	10,501	2,974,046
09/28/2049	37	0.0%	1.80%	0	0	0	0	0	0	0	0	9,273	4,792	9,273	4,792	2,978,838
Total Post-Trial				2,659,834	(658,164)	2,001,670	1,645,826	960,200	0	960,200	785,952	482,172	331,166	3,444,042	2,762,944	
Grand Totals				2,832,888	(691,667)	2,141,221	1,785,377	1,022,673	0	1,022,673	848,425	496,043	345,037	3,659,937	2,978,838	

Thank You!

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



Forensic & Valuation Services, PLC

901-507-9173

www.forensicval.com

rvance@forensicval.com