THE Witness Chair

Leading-edge Ideas for CPAs Providing Litigation and Dispute Resolution Services

SPRIN[illegible]2 California Society of Certified Public Accountants ISSUE 57

So You Want to File A Dissenting Shareholder Action? Think Twice

by James A. Andersen, CPA

Shareholder disputes continue to run rampant in California and throughout the U.S. Particularly disconcerting is the lack of understanding that shareholders have as to what the outcome, damage to the business and the overall cost of a proceeding, might be.

Corporate Code Sec. 2000 and its related subsections 1800 and 1900, have many ambiguities. What makes these related code sections even more confusing is:

- A lack of clarity and understanding of what the "fair value" definition means.
- The lack of case law addressing tax law, particularly the built-in gains issue of highly appreciated assets in C corporations.
- The process of selecting the three disinterested appraisers.
- The parties' responsibility for payment of fees to the attorneys, appraisers, etc.

Fair value as defined in California Code Sec. 2000 "shall be determined on the basis of the liquidation value as of the valuation date, but taking into account the possibility, if any, of sale of the entire business as a going concern in a liquidation."

Some guidance is provided in *Mart v. Severson*, in which one of the appraisers told the court that his interpretation of fair value meant a "tainted" sale environment, one where the seller was not willing, but forced. In general, this can only have a negative, or at best neutral, impact on the ultimate sale price. For an attractive company in a good economy with many suitors and a reasonable marketing period, the impact will not be material. However, this becomes particularly problematic for an unattractive company in a poor economy with few potential suitors.

In differentiating "fair value" and "fair *market* value," we must understand what fair market value is. Revenue Ruling 50-60 defines it as "the price at which the 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, both parties having reasonable knowledge of relevant facts."

Consider the critical elements found in the traditional definition of fair market value that are not present in a Sec. 2000 proceeding. First, a willing seller is not involved. Second, the seller is under a compulsion to sell, specifically because of the pendency of the dissolution proceeding. Third, the involuntary seller under a compulsion to sell pursuant to Sec. 2000 does not have the luxury of waiting for a top offer; the sale must be completed under the adverse conditions of a corporate dissolution conducted in accordance with California law.

There is much case law in a California Code Sec. 2000 proceeding, including *Brown, Abrams, Ronald, Mart, Trehan*, et al. The takeaways from these cases include:

- Liquidation value is not the standard. You must consider the possibility of selling the business as a "going concern in liquidation," a different concept than pure liquidation. Depending on the type of business being valued, it may be a little less than fair market value or it could be liquidation value. Facts and circumstances are different for every proceeding, with liquidity of the business and barriers of entry being forerunners in the valuation decision-making process.
- Minority discounts are not allowed. The business is valued in whole with the selling shareholder receiving a pro rata share of the overall value in cash.
- Discounts for lack of marketability are "it depends." You can deal with the marketability issue in a couple of different ways, either through risk considerations in your discount rate or through a separate calculation.
- The *Abrams* case addresses the fact that an inherent covenant-not-to-compete must be considered in the valuation process.

What has not been addressed via case law and is the new hot topic in Corporate Code Sec. 2000 proceedings is built-in gains tax considerations in C corporations.

Prior to the repeal of the General Utilities doctrine by the Tax Reform Act of 1986, corporate taxes could usually be avoided on appreciated assets via appropriate distributions of the assets. After 1986, such "tax-free" distributions were not permitted,

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Section Action

Business Valuation

by John Misuraca, CPA

Early in my career with a national accounting firm, I was asked to transfer from the auditing section to the consulting department. Most of us in that group were considered "generalists," or, in other words, "jacks of all trades."

We helped our clients move onto accounting software, create projections and business plans, hire accounting staff and any other work where the client needed help and the firm could bill for our services. We didn't have anyone in our office who handled business valuations and if we did, that work was outsourced. I know that many sole practitioners, when a client requested an appraisal, just opened up a book and put one together.

Today, the consulting department of that same firm consists mostly of specialists. There are professionals in that group who only assist clients in areas as unique as sales tax, property tax, human resource issues and tax credits. They also have a large group of business valuation consultants.

My how our world has changed! With the introduction of SSVS No. 1, only a reckless CPA would submit an appraisal report without proper training.

Even in valuation there are disciplines that require specialized training and knowledge. Many BV Section members spend their time only on litigation services, family law, ESOPs or 409A work. Some industries have special nuances that, if not followed, could result in incorrect value and violations of standards. The AICPA, IRS, PCAOB, state laws and case law are providing more and more regulation of our work.

As appraisers, how do we respond?

The BV Section meetings are a great place to stay on top of the latest developments. Discussions regularly focus on the expectations of appraisers in various situations and how to stay in compliance. More important, the meetings offer regular networking opportunities, which allow you to build a list of your peers to contact for advice. Take advantage of your membership and be a leader in the profession.

John Misuraca, CPA *is a former Business Valuation Section chair and managing partner with Avalon Advisors, Inc. in Laguna Hills.*

Economic Damages

by Craig M. Enos, CPA

Revisiting your professional network may be the best career move you make in 2012. A friend of mine who had been in the same industry for more than 20 years recently found himself unemployed after his employer was acquired in a merger. We met one morning for coffee and he shared with me what he learned from his recent job search: He spent so much time building client relationships that he failed to maintain and build relationships with his professional colleagues. He no longer knew who all the players were and realized he had a short list of contacts to call for new job prospects.

Hopefully everyone reading this is employed and not looking for work, but the story applies to many of us in our positions. Do you know who you would call if you had a question related to an economic damages issue? Who would you refer a case to that was outside your area of expertise? Who would you call if you wanted to set up an office or had a problem with your computer?

Having ventured off last year to start my own practice, I found the value of my professional relationships to be as beneficial as my client relationships.

CalCPA is a great resource for building your professional network. Your local chapter's litigation committees and the Forensic Services Section provide great opportunities to meet your peers and build a strong professional network. Look online at the CalCPA website, *www.calcpa.org*, to find the next meeting of your chapter's litigation committee. Better yet, attend other chapter meetings, such as those of the tax, business and industry or technology committees to meet other professionals who practice outside your area of expertise. In addition to earning CPE, you might meet someone new you can contact when you have a question or perhaps even pick up a referral.

Your local county bar association provides a great opportunity to build professional and client relationships. Search online for your local bar association and its calendar of events. Many of the associations across the state have committees that meet regularly to discuss topics such as litigation, labor and employment or family law. The meetings are informative and provide a great opportunity to make a new contact.

Make 2012 the year you revisit your professional relationships and build a strong network. Make plans to attend a Forensic Services Section joint meeting this year.

Craig M. Enos, CPA, ABV, CFF, CFE *is Economic Damages Section chair and owner of Enos Forensics in Folsom.*

Family Law

by Dan Close, CPA

Forensic CPAs familiar with apportionment of separate and community interests in a business should be very interested in a recent decision by the California Appellate Court, *Patrick v. Alacer Corp (Patrick II),* 11DJDAR 17913, 11/16/2011.

After the death of James W. Patrick, founder of Alacer Corporation, the maker of Emergen-C vitamin supplements, his widow Ymelda sued Alacer claiming a community property interest in Alacer stock held by his trust. James and Ymelda were in the process of dissolving their marriage when James died. After Ymelda filed a Fifth Amended Complaint, the Court found that, although Alacer stock was James Patrick's separate property, the value of Alacer, which increased substantially during the marriage, must be equitably apportioned to the community.

Forensic accounting methods to apportion a separate property business interest to the community generally utilize a *Pereira* approach [*Pereira v. Pereira* (1909) 156 Cal. 1, 103 P. 488] and a *Van Camp* approach [*Van Camp v. Van Camp* (1921) 53 Cal.App. 17, 199 P. 885].

Patrick II explained that a *Pereira* approach is considered when "business profits are principally attributed to efforts of the community" and a *Van Camp* approach is considered when the "business profits accrued are attributed to the character of the separate asset." Citing *Dekker, Patrick II* stated that although "courts have not developed a precise standard in choosing between *Pereira* or *Van Camp* … the court has the discretion to choose whichever formula will effect substantial justice." [*In re Marriage of Dekker* (1993) 17 Cal.App.4th]

In *Patrick II*, the defendants argued that there was no community property in Alacer based on a *Van Camp* approach because the community had been over compensated for James Patrick's efforts during the marriage. However, the court found that Alacer's growth was the result of a combination of James Patrick's skill, efforts and industry applied during the marriage and the intrinsic value of the separate property business. The Court thus chose the *Pereira* approach because "substantial justice is best accomplished by the use of this approach, paying careful attention to the valuation methodology and the capitalization rate used in the methodology."

The experts in the case agreed that at the time of marriage, October 1988, the value of James Patrick's stock was $250,000 and also agreed on a 7.68 percent annual rate of return through James Patrick's death in February 2003. Applying this return to the original $250,000 resulted in a value of James's separate property interest of $530,000 at the date of his death.

The Patrick community interest in Alacer in February 2003 was found to be approximately $6.5 million, a figure the Court arrived at after adopting a value based on a capitalization of excess earnings method, less $530,000 of James Patrick's separate property interest.

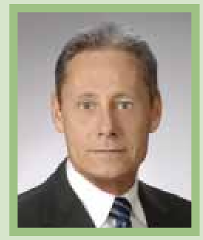
This resulted in the community owning 95 percent of the stock's value, but not the stock itself. The court gave no indication how the community is to be compensated if not in stock.

While there are other issues involved in *Patrick II*, it is the valuation methodology, the Court's rationale and its detailed discussion involving apportionment of separate and community property in a business utilizing *Pereira* and *Van Camp* that is most interesting to CPAs practicing in family law.

M. Daniel Close CPA, ABV, CFF, CVA *is chair of the Family Law Section and a shareholder of EDR Valuations, Inc. in San Diego.*

Message From the Chair

by Daniel W. Ray, CPA



Time marches on and my tenure as the chair of the Forensic Services Section Steering Committee has drawn to a close. One obvious change since the beginning of my tenure is a change to the name of the section. For many years it was called the Litigation Sections Steering Committee. Recognizing that the members of the Business Valuation, Economic Damages, Family Law and Fraud sections often provide services outside the context of litigation, the committee elected to eliminate the reference to litigation and broaden the name to the Forensic Services Section.

This name change was just a part of the introspective analysis and discussions that occurred during my tenure. The committee worked diligently to ensure that the content of the education, training and guidance offered to the Section members and other practitioners stays relevant. I want to personally thank the members of the committee for their efforts and contributions.

I also want to take this opportunity to introduce you to the new officers of the Section. The new chair is Peter Salomon, with Hemming Morse, LLP in Los Angeles. Peter, a former chair of the Fraud Section, has more than 20 years of experience in forensic accounting and will do a terrific job in guiding the committee as it continues to serve the members of the various sections. Marty Laffer, with Laffer & Gottlieb in Beverly Hills, is the new vice chair; Marie Ebersbacher, with Mayer Hoffman McCann P.C. in Bakersfield, is the new treasurer; and Greg Regan with Hemming Morse, LLP in San Francisco, is the new secretary.

I look forward to continuing my involvement with the Section and I am thankful for the support given by my fellow committee members.

— **Daniel W. Ray, CPA, CFE, CFF** *is a partner with Hemming Morse, LLP in San Francisco.*

Fraud

by Barbara J. Gottlieb, CPA

Attorney-client privilege is one of the oldest non-constitutional rights afforded to U.S. citizens. Assuming an existing attorney-client relationship, the doctrine protects a right to privacy, prohibiting information exchanged between an attorney and client, from being made public or used in a court of law. However, the privilege only safeguards communication that takes place in confidence, with no third parties present, and that which pertains to legal advice. This is often not a cut and dry issue, because often legal advice is intertwined with other business advice.

An important exception to the attorney-client privilege is the crime-fraud exception, which, under certain circumstances, requires an attorney to disclose confidential client information or communications to the court. This exception is sometimes asserted in white-collar criminal cases involving a fraudulent scheme or transfer of money. It doesn't matter whether an actual crime or fraud occurred, or whether the attorney had knowledge that a crime occurred to invoke the crime-fraud exception.

The standard of proof to invoke the crime-fraud exception is less than "proof beyond a reasonable doubt." There must be a reasonable cause to believe that the legal services were utilized to further an ongoing illegal scheme.

An *in camera* review of the documents often helps determine whether there exists *prima facie* evidence of collaboration to commit a criminal act or a good faith belief that the relationship between the client and the attorney is criminal or fraudulent. However, not all instances involve collusion, and thus, it is not necessary for attorneys to have knowledge of the fraud or crime, as they may be an unwitting participant.

Aside from the crime-fraud exception, the client is the only one who can waive the attorney-client privilege. It belongs to the client, not the attorney. Attorney-client privilege is sometimes inadvertently waived by the failure to object to the demand for disclosure during the litigation process.

Privileged communications are integral to our legal process. They facilitate the trust and a free flow of information between attorneys and their clients. While we must protect the right to attorney-client privilege, we must all be aware that it does not provide a cloak of amnesty.

Barbara J. Gottlieb, CPA *is a former Fraud Section chair and a partner with Laffer & Gottlieb, CPAs in Beverly Hills.*

Keepin' It **Legal**

The Concept of Legal Reasoning: Developing the Financial Opinion

by Brian P. Brinig, JD, CPA

One of the great challenges in a litigation services analysis is to develop a theoretically sound financial opinion that embraces all of the facts, adopts reasonable assumptions when necessary and applies sound rationale to derive a conclusion. To accomplish this lofty goal, a practitioner must aggressively develop and repeatedly challenge the underlying facts and theoretical concepts of the case during the analysis phase.

Advancing a financial opinion in litigation requires a blending of financial and legal theory. Neither one is sufficient to carry the day; competent practice requires knowledge of each discipline. The approach that has worked for me for more than 25 years adapts the analytic metric of lawyers, known as the IRAC formula—Issue, Rule, Analysis (or Application), Conclusion—and distantly applies it to financial and valuation analysis through a technique that I have termed the FARC methodology—Facts, Assumptions, Rationale, Conclusion.

The analytic approach of FARC assists practitioners in developing reasoned arguments and supportable conclusions that withstand the scrutiny of litigation. Like its cousin, IRAC, FARC is not the answer to all of the complexities of a litigation services practice. It is just one more tool in the arsenal of the qualified forensic accountant.

The concept of legal reasoning (adapted from Vern R. Walker, "Discovering the Logic of Legal Reasoning") is one of rule-based reasoning, designed to develop and apply substantive legal rules. The substantive rules of law state the conditions under which particular legal conclusions result. Formal logic represents such rules as "conditional propositions." A proposition is the descriptive content of an assertion or statement. It is capable of being either true or false, and is usually expressed in ordinary language as a sentence or a clause. A conditional proposition has the logical form "*if p, then q*," where p and q stand for two constituent propositions. A legal rule states that if proposition *p* (the condition) is true, then this fact warrants that proposition *q* (the conclusion) is also true.

It is rare to be involved in the application of a rule as simple as "Failure to stop is a violation of the law." In this conditional proposition, there is one condition (failure to stop) and one conclusion (violation of law). In reality, most rule-based reasoning involves a complicated law that has a conjunction of conditions connected by "AND" and the possibility that there are defeating conditions ("UNLESS") that will negate the conclusion. Furthermore, the underlying facts never have "values" as simple as true or false; they are always undecided at the outset of the matter. So the conclusion rests on the evolving discovery of the existence of the facts, the conjunction of the conditions of the law, and the possible existence of defeating conditions that will negate the logic of the rule.

To wade through the minefield of legal reasoning, lawyers and law students have developed the IRAC formula. The IRAC structure is the basic building block of legal analysis. The beauty of the analytic model is that it allows the complexities of the law to be reduced to a simple equation containing four parts.

Issue: What legal question possibly exists in this situation? (The facts of the case suggest an issue.)

Rule: What is the governing law for the issue? (The issue determines what rule is applied.)

Analysis (or Application): Do the existing facts apply to the rule?

Conclusion: Develop a conclusion (or argument) to the question based on the application of the facts to the rule.

To apply the IRAC formula, one first identifies an issue of law based on the existing facts. When a legal issue is identified, the related rule is stated based on an existing statute or case precedent. Then, the facts are analyzed in relation to the rule to form the conclusion. If a rule requires that a certain circumstance be present in order for the rule to apply, then the absence of that circumstance helps reach the conclusion that the rule does not apply.

Proponents and opponents of the IRAC formula may disagree, but regardless of any criticism, the IRAC rule is an effective analytic tool for forcing complex legal facts into a framework of logical analysis.

A financial or valuation analysis is a blending of underlying facts, reasonable assumptions, financial theory and legal theory. The facts and assumptions of a case are woven through a logical financial and legal rationale to derive a conclusion. The proper combination of these four components—facts, assumptions, financial theory and legal theory—will yield a supportable financial analysis that will be defensible in a court of law.

Facts are historical or present truths. To connect facts to any conceptual theory (either legal or financial), it is necessary to use assumptions. Assumptions are suppositions, or the supposing of a hypothetical fact to be true. Assumptions are necessary to perform a lost earning capacity analysis because everything that is presumed to occur after the date of the incident in question is an assumption. Recognizing that assumptions are required in the analysis, it is important that the assumptions used by the forensic accountant are reasonable in light of the historical facts of the case and a realistic expectation of what would have happened to the plaintiff in the "but-for" world.

The following step-by-step process constitutes a conceptual framework for legal/financial analysis that helps to compress the vagaries of a complex factual situation into a practical financial analysis. It is helpful to analyze every step in a damages or valuation calculation by these four steps.

Facts: Consider the known facts relating to a particular step in the analysis. In the context of financial analysis, facts are known financial occurrences. Examples of facts are a plaintiff's wages, the types of benefits they received and the date of the incident. In a valuation analysis, the facts are historical earnings, financial ratio analysis and industry trends.

Assumptions: Develop reasonable assumptions to fill in gaps or weaknesses in the facts and to connect the facts to the

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AICPA Alert

by Greg Regan, CPA

What issues are emerging that challenge forensic CPAs? Among the ways that the AICPA's Forensic and Valuation Services (FVS) Section attempts to keep an ear to the ground is its LinkedIn forum, *www.linkedin.com/groups?mostPopular=&gid=3349052*.

Another way to connect to, and learn from, practitioners is the AICPA's national forensic and valuation conferences. This year the AICPA is combining the conferences into one, to be held in November in Orlando, Fla. One keynote session will focus on emerging issues with the leaders of various FVS committees and task forces.

This topic is important because emerging issues often inform the agendas for our committees and task forces. For example, the Damages Task Force recently became aware of a decision in federal court that resulted in a successful *Daubert* challenge against a forensic accountant in a business interruption dispute. The decision focused on the expert's failure to point to "literature from the field of forensic accounting identifying the principles that a forensic accountant should apply when choosing a growth rate." This topic, however, is not addressed in the most relevant practice aid (*Calculating Lost Profits*, No. 06-4). The only mention of growth rates in that document is an observation that the use of an unreasonable growth rate is unreliable. This is noteworthy because PWC's annual *Daubert* study continues to find that lack of reliability is the most common basis for the exclusion of financial experts. As a result, we are taking a fresh look at guidance on steps an expert might take to increase the probability of successfully defending an attack on reliability.

Ultimately, our review may culminate in a new practice aid on this topic or perhaps another tool such as a whitepaper or webinar. We welcome thoughts from practitioners on this or any other idea you might have.

To volunteer for an AICPA committee or task force, visit *https://volunteers.aicpa.org*. Volunteers are sought in various categories, including forensic and valuation services. Speaking from experience, it has been a terrific way to learn more about our profession, meet geographically diverse practitioners and represent CalCPA's Forensic Services Section.

Greg Regan, CPA, CFE, CFF *is a partner with Hemming Morse, LLP in San Francisco.*

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and the sale of an appreciated asset would trigger a corporate-level tax, thus significantly changing how built-in gains taxes were considered when valuing a corporation.

After 1986, appraisers opined that the built-in gains tax must be considered under the fair market value standard. Underlying this opinion is the premise that a willing buyer would be cognizant of the potential tax liability it would face and, therefore, would consider such a tax liability when determining the value it would be willing to pay for the acquisition of the stock of a C corporation.

How the built-in gains tax should be recognized varies based on the facts and circumstances of each case with case law indicative of some consideration for when the taxes may be paid and adjusting the liability accordingly.

What differentiates the handling of the tax situation in a Corporate Code Sec. 2000 proceeding under the *fair value* standard v. the *fair market value* standard is the certainty that the corporate tax would have to be considered on a dollar-for-dollar basis since any potential tax planning considerations would not be available because of the "date certain" timing and immediacy of the 2000 proceeding.

This appraiser's view is that full dollar-for-dollar adjustment is warranted on all cases that have potential built-in gains ramifications. What will be interesting is when case law on a disputed case ultimately brings this issue to fruition.

The selection of the appraisers can be handled in a number of ways. The court may take control and review various appraiser résumés and choose three, hopefully qualified, valuation analysts. Or, and more often than not, each side will pick its own appraiser and the two appraisers will choose a third. Finally, both sides may agree to waive the three-appraiser process and stipulate to one neutral appraiser.

I have worked under all three of these scenarios and the one that I would never agree to again is being a "party of one." In that instance, the side that didn't like my analysis went out and hired a rebuttal appraiser anyway and the case went to a full two-day hearing. My preference is having both sides pick their own appraiser with the appraisers then agreeing upon a neutral. Why? The appraisers have typically been at a higher level, the attorneys are usually more experienced in Corporate Code Sec. 2000 proceedings and the gamesmanship is usually easier to monitor.

The fee situation can be handled in two ways. The more traditional method is having the moving party pay his or her own fees while the corporation typically pays for the fees of the party exerting his or her Corporate Code Sec. 2000 rights. I have also seen the corporation agree to pay the fees for both parties, more often negotiated in advance in 50-50 shareholder proceedings.

In summary, a Corporate Code Section 2000 proceeding should be a last resort to resolve corporate conflict. While on the surface it may appear that the shareholder exercising the rights to block the dissolution has the advantage, this may not always be the case. The cost of the proceeding to all parties is extensive, the damage that is done to the work force can be crippling and the purchase of the business interest by the purchasing party is an all cash deal.

The moral of the story? A well crafted buy/sell agreement with an agreed upon valuation method determined in advance is a more palatable solution than a six or seven figure dissolution proceeding!

James A. Andersen, CPA, ABV, CFF, ASA *is a partner in the consulting, business valuation and litigation practice area of Burr Pilger Mayer in the San Francisco Bay Area. For more than 20 years, he has been taking businesses through the business valuation and succession planning process.*

HAPPENINGS

FORENSIC SERVICES SECTION MEETINGS

Business Valuation	Thursday, Aug. 16, OAK
Economic Damages	Thursday, Aug. 23, SAC
Family Law	Friday, Aug. 17, OAK
Fraud	Wednesday, Aug. 15, LAX
All Sections Joint Meeting	Wednesday, Oct. 17, OAK

An individual meeting notice will be sent and you may register online at *www.calcpa.org*. For more information, call (818) 546-3502.

EDUCATION FOUNDATION COURSE OFFERINGS

(800) 922-5272 or www.educationfoundation.org

Advanced Family Law Workshop	Thursday, Oct. 4, SF/Pen
Business Succession Planning and Exit Strategies: Understanding Planning for Business Ownership Change	Thursday, July 19, LAX Thursday, Sept. 20, SF/Pen
Business Valuation: A Review of the Essentials	Friday, July 13, SFO
Divorce—Keeping it Separate	Thursday, June 21, Webcast
Fighting Fraud Using Data Analysis	Thursday, Aug. 9, OC North
Financial Fraud Investigation Methodology	Tuesday, Aug. 14, OC North
Fraud in Audit, Accounting and Tax Conference	Thursday, June 14, BUR Friday, June 15, SF
Opportunities and Methodologies for Running a Successful Litigation Services Practice	Wednesday, July 18, LAX

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applicable financial and legal theories. For example, if the plaintiff's historical wage has fluctuated and there is no clear trend, consider using a reasonable average of historical earnings as the assumption for the plaintiff's earnings basis in the analysis. In business valuation analysis, use assumptions to adjust historical financial statements, connect the subject company to outside industry or comparable business studies, and project the future of the business.

Rationale: Fundamental reason; a written statement of the reasoning that links the facts and assumptions to the conclusion. Be sure there is sound logic in interpreting the facts and adopting reasonable assumptions, and that there is a reasonable connection between the facts, assumptions and conclusions that are being reached.

Conclusion: Relying on facts, reasonable assumptions and sound rationale, draw a conclusion that is supportable and defensible in the face of the arguments against it.

The application of the FARC framework to every part of a financial or valuation analysis is very effective, but it quickly shows that there is no absolute way to perform these types of analyses. None of the types of analyses that forensic accountants do is black and white. It is impossible to provide a formula to the analyst that will work to decide every factual or analytic situation. Even though there are general financial models that can be applied, the unique circumstances of each case will require the analyst to apply a flexible framework of analysis that will lead to the best conclusion.

Application of the FARC approach will result in supportable decisions throughout the entire analysis that can be explained and defended in the hostile environment of litigation.

Although every step of the forensic accountant's work will be challenged, if the analysis has been developed with a thorough understanding of the underlying facts, reasonable assumptions and sound rationale, the conclusion will be intellectually supportable and will withstand any reasonable challenge.

Brian P. Bring, JD, CPA *is the managing principal of Brinig & Company, Inc. in San Diego and is adjunct professor at the University of San Diego School of Law. His most recent book is* Finance & Accounting for Lawyers.

The Witness Chair is published three times a year by the Forensic Services Section of the California Society of Certified Public Accountants.

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