

# USING FORENSIC ACCOUNTANTS AND BUSINESS VALUATION EXPERTS

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Stock or ownership interest in a publicly traded corporation is relatively simple to value. However, for most small business owners, the business is often the single largest asset of the marital estate. It has often been said that one of the most complex area of divorce law is business evaluation. Valuation of a closely held business is difficult because the stock of such business is not traded in the open market. Hence, an objective basis of evaluation is not available. Because business valuation is complex and will often require expert testimony, finding the right expert is important in preparing a business valuation case. In making the selection to hire an expert, the lawyer should examine the following:

1. The credential of the expert. Is the expert certified or accredited by:
  - a. The Institute for Business Appraisers (IBA)
  - b. American Society of Appraisers (ASA)
  - c. National Association of Certified Valuation Analysts (NACVA)
  - d. Institute for Business Appraisers (IBA)
  - e. Certified Public Accountant Accredited in Business Valuations of the AICPA (CPA/ABV)
  - f. Certified Valuation Analyst of the National Association of Certified Valuation Analysts (NACVA)
  - g. Fellow of the American Society of Appraisers (FASA\_
  - h. Fellow Certified Business Intermediary of the International Business Brokers Association (IBBA)
  - i. Fellow of the Institute for Business Appraisers (FIBA)
  - j. Masters Certified Business Appraiser (MCBA)
2. The number of times the expert has testified both by deposition and at trial;
3. The experts knowledge and experience in the subject type of business; and
4. Whether the expert's testimony ever been disallowed in any court pursuant to a Daubert challenge.

After the expert has been selected, the next step is to begin collecting the data that will be needed to complete the business evaluation. There is certain information that is common to all business evaluations and the lawyer can expedite the valuation process by requesting that his client make this information readily available if he is representing the client controlling the business. If the lawyer is not representing the controlling business owner then the party can send production request to obtain the needed information.

Documents that are typically requested are:

1. Financial statements for the last five (5) years, as well as interim financial statements if the valuation is to be performed as of an interim date;
2. Detailed general ledgers and/cash disbursement journals;
3. Articles of incorporation or partnership agreements or operating agreements, depending on the type of entity being valued;
4. Aging of accounts receivables;
5. Listing of investments;
6. Detailed list of all inventory adjusted to fair market value;
7. Detailed list of property and equipment with depreciation schedules;
8. Copies of insurance policies;
9. Details of loans and other significant account payables.
10. Shareholder Agreements;
11. Business plans;
12. Forecasts or projections of the business;
13. Information regarding litigation;
14. Financial Statements prepared by in house or outside accountants; and
15. Real estate and equipment appraisals; and
16. Franchise agreements, if applicable

In addition to the above information, the expert will most likely provide the lawyer with a detailed list of information specific to the business being evaluated that will need to be provided before the expert will be able to complete the evaluation.