

Special Feature

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Discovering the value in forensic accounting



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**By Marc D. Bello
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Too often, family lawyers and business litigators consider forensic accountants an unaffordable luxury when it comes to advancing their cases. The misperception is penny-wise and pound-foolish. Whether tracing funds, uncovering hidden assets or educating the parties on damages, hiring well-trained and experienced forensic accountants early in financial litigation can be an invaluable asset to attorneys. Forensic accounting is the art and science of investigating people and money. The practice incorporates traditional accounting procedures with investigative techniques to resolve financial disputes. Forensic accountants critically examine an individual's or a company's complete financial operations, pouring through financial documents and other data from which they root out irregular

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spending patterns and/or suspicious transactions.

Simply put, they follow the money to see if it is being misapplied to benefit a particular person, siphoned to unintended recipients, or hidden from those who have a legitimate claim to the asset.

Forensic accountants go beyond tax returns and financial statements to look at source documents such as appointment books, expense ledgers and other information behind the numbers.

A misnomer is that forensic accounting is limited to fraud hunting. The scope of forensic accounting is a much broader term that can incorporate alter ego, forensic lexicology, genograms and digital analysis techniques such as Benford's Law.

Qualified forensic accountants have relevant certifications. An experienced specialist has the ability to see the big picture and can provide guidance regarding scope of procedures and the shortest path to resolution.

More important than simple mastery of financial techniques, a good forensic accountant has excellent verbal communication skills.

The ability to articulate complex theories into simplified conclusions understandable by clients, counsel, jurors and triers of fact distinguishes the accountant as a skilled specialist. A skilled forensic accountant retained pre-litigation can temper a client's expectations by showing that the evidence differs from

perception. He also can assist counsel in developing a strategy to resolve a dispute prior to filing suit.

In the family law realm, forensic accountants are indispensable in discovering hidden assets or income in divorce cases. A business owner/spouse operating a cash-intensive business (such as landscaping companies, hair salons or bars/restaurants) may signal a forensic accountant would be useful. The forensic accountant in such cases may compare business reported earnings to industry benchmarks or third-party records while considering the spouse/owner's lifestyle. Likewise, the spouse/owner's discretionary spending and personal benefits over and above his or her W-2 statement will be scrutinized. These procedures can help identify whether the owner is passing personal expenses through the business.

Forensic accountants also may play a key role in the civil litigation arena in a wide variety of cases. They can provide the evidence needed to support claims of financial misrepresentations, business interruptions or shareholder dispute cases.

Investigating and analyzing documents and circumstantial evidence enable them to form opinions to support or refute claims by damaged parties.

Consider, for example, a situation in which a key employee leaves an enterprise with customers in tow and opens a competing business across

the street from the former employer. There are numerous potential damages, from simple business interruption claims all the way up to calculating a permanent decline in operations.

The skilled forensic accountant also will consider causation and mitigation in his analysis. Finally, from the outset of the working relationship, it's crucial that parameters are set. Optimally, the forensic accountant should be involved in a case as long as is necessary to sustain

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the claim, but financial constraints should be clearly articulated early on and determinations made whether the accountant will serve as a consultant or as a testifying expert. The forensic accountant whom attorneys want on their side can concisely explain his methodology, challenge theories and produce a defensible conclusion. 

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