



Certified Public Accountants
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Litigation Consulting

Update

Forensic Accounting - Fraud - Business Valuation

September 2013

Recent Case:

Restaurant Economic Damages Litigation

Issue:

Civil litigation was initiated in a property dispute between the owners of a restaurant and the owners of a neighboring piece of real estate. **Arxis Financial** was hired to quantify the financial impact of a parking injunction on the value of a restaurant. The injunction would prevent the restaurant from using a driveway that provided access to a parking lot at the rear of the restaurant. There was no other access to the parking lot and loss of that access would require the restaurant to initiate a parking valet service. This service would require additional cost to patrons and would necessarily limit the restaurant hours to dinner only since surrounding parking lots were fully utilized during daytime business hours. Breakfast and lunch business represented 40% of the profits of the business and would be impossible.

Arxis work:

Two business valuations were prepared: A business valuation was prepared as-if the injunction did not happen and a second appraisal was prepared reflecting the permanent diminution in value had the injunction been made permanent. Because of the type of litigation, **Arxis Financial** was required to consider alternative uses of the building that might mitigate the loss of revenue. Cash flow and economic analysis was prepared for conversion to a smaller sized structure to make room for a driveway and the conversion of the existing space to either a smaller restaurant, walk-up retail, or a combination of both. When comparing the two valuations **Arxis Financial** was required to establish the "permanent" loss in value as opposed to temporary reduction in income. All of this was done in less than a week since the temporary injunction was filed and it was effectively choking the life from the business. There was an urgency to getting the valuations and declarations done so relief could be sought in court.

Result:

The case settled with terms that preserved a landmark restaurant. A key aspect of the settlement was the valuation work, which demonstrated that the loss of business income was so significant that the driveway access issue had to be resolved. This caused the two parties to mutually resolve the matter in a way that was satisfactory to both, avoiding additional litigation.

Article:

Combatting Workplace Fraud through Internal Controls

In the ACFE 2012 "Report to the Nations on Occupational Fraud and Abuse" the observation was made that "the frauds reported to us lasted a median of 18 months before being detected." The speed at which fraud is detected is a function of the effectiveness of internal controls and, surprisingly, the relationship of management/ownership with staff.

In the [ACFE fraud study](#), the leading means of discovery was tips by individuals with knowledge of the fraud. However, relying on tips to alert management to embezzlement or other forms of fraud is a risky strategy ... ([click here](#) for complete article in [HTML](#) or [PDF](#) formats).

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Speeches:

Upcoming Speaking Engagements for Chris Hamilton

September:

Chris Hamilton will provide a presentation to the California Society of CPAs (CalCPA) on "Fraud and Fraud Technology " in Camarillo, California.

Chris will speak on the topic of "Business Valuation Fundamentals, Techniques, & Theories " to the National Association of Certified Valuators and Analysts™ (NACVA) in Atlanta, Georgia.

Practice Profile:

Business Valuation Practice

The **Business Valuation** practice is headed by partner [Chris L. Hamilton, CPA, CFE, CVA, DABFA](#). Mr.

Hamilton is a Certified Public Accountant, Certified Fraud Examiner, Certified Valuation Analyst, and a Diplomate with the American Board of Forensic Accounting. He is a licensed life and disability insurance agent and a General Securities Representative. Mr. Hamilton has published articles in several publications, and has made presentations at national conferences, training institutes and seminars on topics including forensic accounting, fraud and business appraisal.

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Clients know us for results. Opposing counsel know Arxis for wishing they had hired us.