

We understand how spouses going through a divorce or separation face monetary and property issues in addition to the emotional aspects. How these matters are resolved generally have long-term implications and can dramatically impact the individuals' financial well-being.

This letter is to inform you that we offer a wide variety financial services to assist you in your divorce, including the following:

- Business valuation;
- Tax planning;
- Expert witness and discovery assistance;
- Assistance in finalizing property distributions (e.g. equitable distribution); and
- Support agreements, such as alimony and child support.

Retaining a forensic accountant can benefit you in your divorce in many ways. After all, you hire an attorney as they are experts in the field of law, it only makes sense to include a forensic accountant to assist with the monetary and property portions of your case.

As your accountant, we can assist you in your divorce in two different forms. First, we can be retained as an expert, which would allow me to look at the evidence independently, as well as testify in court. Second, we can be retained as an advocate for you, which means we would look at your case through the lens of your perspective, and as we would be part of your legal team, all the work that we perform would be covered under the attorney-client privilege. More times than not it is more beneficial for our clients to hire us as the former, as having a qualified expert testify in court can be a strong argument on your side. I am a qualified as an expert in the State of FL in many jurisdictions and have a multitude of experience in various matters.

Of course, it is also important to note that the scope of our retention can change at any time. If for some reason we are initially hired as an expert in your case, but you wish for us to then become an advocate and part of your legal team, we can do so.

As we have handled hundreds of cases, we are very familiar with the ins and outs of divorce. However, obtaining an expert is not for everyone. We want to make sure that we are good investment, meaning you get a better return than the money you spend on us. We offer initial consultations, and in those consultations, we will briefly discuss with you the issues in your case, and determine if it would be beneficial for you to hire an expert.

We look forward to hearing from you.

Sincerely,

*Josh Shilts*

Josh Shilts, CPA/ABV/CFF/CGMA, CFE  
President, Shilts CPA

### **1. Why hire a forensic accountant?**

Hiring a forensic accountant can often be a case saving investment, but it is also a decision that should not be taken lightly. When considering whether to hire a forensic accountant, in order to save you both time and money, you must ask yourself what do I need a forensic accountant to do? Here are several common scenarios where we may be of assistance:

- Do you believe that your spouse may be hiding assets or income?
- Do you need assistance with equitable distribution as there are several pre-marital assets where a portion of the asset may be part of the marriage?
- Does the spouse have a business that needs to be evaluated or valued for equitable distribution purposes?
- Do you or your attorney need assistance with alimony or child support calculations?

The main goal in considering whether to hire a forensic accountant is to make sure that accountant will be able to offer you a return on your investment. Hiring a forensic accountant can often become expensive, and the last thing we would want you to do is spend \$1,000 only to find \$500 in hidden assets. In every case we will meet with you either over the phone or in person to make sure prior to our engagement that you are aware of our services and to confirm we can assist you in a positive way.

### **2. What is forensic accounting?**

Forensic accounting is defined as the use of accounting skills to investigate fraud or embezzlement and to analyze financial information for use in legal proceedings. For example, in a divorce case a forensic accounting will investigate whether a spouse has hidden any assets or income, and if discovered be able to testify at court to those assets in order for those assets to be reconciled on equitable distribution worksheet. This skill set is very different from the skills sets and experience needed to perform a business valuation or tax planning.

### **3. Do you act for one attorney, or can you act for both sides in a divorce case?**

Although we are usually hired by one party (or appointed by the court), it is beneficial to both the spouse and the attorney to hire a forensic accountant that works on both sides of the aisle and works more as a independent third-party rather than as a one-sided consultant. As an independent third-party we will be able to testify as an expert for the court which I would not be able to do as a consultant. However, there are times when hiring a forensic accountant as a consultant can be beneficial to yourself or both spouses. I have participated in several mediations as well as received my training certificate to become a FL Supreme Court Certified Divorce Mediator.

### **4. How can you assist me in a business valuation?**

The difficulty of valuing an ownership interest in a closely held business is one of the tougher challenges to overcome in a divorce. Case law regarding business valuation in divorce cases can be complex and understanding the nuances of a valuation, which differ by industry and type, can be overwhelming. We

are versed in the mechanics of valuation and can assist counsel in making sure that an appropriate valuation is made for purposes of equitable distribution.

One of the most complicated and often forgotten areas in valuing a business is determining how much enterprise and/or personal goodwill should be included (or excluded) in the valuation price for purposes of equitable distribution. Personal goodwill is the intangible asset that arises from the efforts or reputation of a business owner. Alternatively, enterprise goodwill is the intangible asset that arises from the effort or reputation of the business itself. Florida courts have ruled that only enterprise goodwill, not personal goodwill is be included in the valuation price for purposes of equitable distribution, so being able to distinguish between the two can make a dramatic difference in a divorce case.

#### **5. How can you assist me in tax planning?**

There are important tax considerations in any dissolution of marriage, including the dependency deduction for children, taxability and deductibility of child support and alimony in their various forms, and effects of property transfers. Knowing the tax consequences of your settlement agreement before finalizing your dissolution of marriage is extremely important. For example, the division of retirement plan assets requires careful compliance with the tax rules to ensure the spouse receiving the retirement funds is taxed on the income. Furthermore, there are different rules depending on whether the retirement assets are in an employer plan or inside an IRA. Similarly, considering the tax bases of the spouses' assets and the future tax consequences from the sale of those assets is critical to ensuring the most equitable property settlement possible. It may be too late after the signing of a marital settlement agreement or entry of a final judgment to correct mistakes that have been made. Engaging in a qualified and experienced CPA in conjunction with your attorney will allow you to become better informed about this part of the dissolution process.

A tax review of spousal and child support provisions will ensure that these are properly treated for tax purposes. There may also be planning opportunities that will provide you the most tax-advantageous means of paying or receiving support amounts.

#### **6. How can you help with discovery?**

Discovery assistance can be beneficial in a number of ways. Because we are trained and experienced with reviewing financial documents, we have the ability to identify undisclosed or unknown assets or liabilities as well as identify potentially nefarious activities. We are also trained to develop questions for counsel to use in deposition and other discovery settings. We can provide expertise in (a) preparing schedules of disposable income and expenses, (b) preparing schedules of marital and separate assets and liabilities, (c) estimating the value of each asset and liability, and (d) performing forensic examination of assets or closely-held company information.

#### **7. Can you assist me in finalizing property distributions and support agreements?**

We believe the many specialized divorce-related services that our firm offers could be of assistance in many of the divorce and separation legal actions your firm handles.

One of the main areas we can assist is to ensure that assets and liabilities are separated equally amongst the parties, which is commonly referred to as equitable distributions. Equitable distribution is based on a long list of factors the court is required to consider and engaging a qualified expert can ensure the court will be able to make an informed decision on separation of the assets. Assets may include cars, houses, retirement benefits (pensions and 401(k) plans), business interests, cash, stocks, bonds, bank accounts, personal property and other things of value. Debts (also called “liabilities”) include mortgages, car loans, credit card accounts and other amounts of money you and your spouse owe to third parties.

#### **8. What about support agreements, such as alimony and child support?**

After equitable distribution, the court may consider an alimony award. The court may grant alimony to either spouse. For the court to award alimony, the requesting spouse must demonstrate a need for alimony and the ability of the other party to pay. Once the requesting spouse has established a need and an ability to pay, the court must determine all relevant factors to determine the property type and amount of alimony to award.

For purposes of determining alimony, there is a rebuttable presumption that a short-term marriage is a marriage having a duration of less than 7 years, a moderate-term marriage is a marriage having a duration of greater than 7 years but less than 17 years, and a long-term marriage is a marriage having a duration of 17 years or greater. The length of a marriage is the period of time from the date of marriage until the date of filing of an action for dissolution of marriage.

#### **9. What are the different types of alimony?**

Bridge-the-gap alimony may be awarded to help a spouse make a transition from being married to being single. Bridge-the-gap alimony is designed to assist a spouse with legitimate, identifiable short-term needs. There are limits as to the length and conditions of a bridge-the-gap alimony award.

Rehabilitative alimony may be awarded to assist a spouse in establishing the capacity for self-support through either the redevelopment of previous skills or credentials, or the acquisition of education, training or work experience necessary to develop appropriate employment skills or credentials. The court must articulate a specific rehabilitative plan to award alimony so both parties clearly understand the expectations placed on the alimony recipient.

Durational alimony may be awarded when permanent periodic alimony is inappropriate. The purpose of durational alimony is to provide a spouse with economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis. There are limitations as to the length and modifiability of a durational alimony award.

Permanent alimony may be awarded to provide for the needs and necessities of life as they were established during the marriage of the parties for a spouse who lacks the financial ability to meet the needs and necessities of life following a dissolution of marriage. There are limitations as to when a court may award permanent periodic alimony, particularly for marriages of short or moderate duration.

## **10. What factors are considered in determining alimony?**

Some of the factors the court considers when determining the type and amount of the alimony award include, but are not limited to:

- The parties' prior standard of living.
- Length of the marriage.
- Age and physical and emotional condition of both spouses.
- Each spouse's financial resources and income-producing capacity of the assets they receive.
- The time necessary to acquire sufficient education or training to find appropriate employment.
- The services rendered in homemaking, child-rearing and the education and career-building of the other spouse.
- The court may consider any other factor necessary to do equity and justice between the spouses.

You have the right to obtain information about your spouse's income and assets through the use of discovery procedures and engaging in a forensic accountant to review spouses records can ensure there are no hidden assets and income.

## **11. What factors are determined in considering child support?**

You and your spouse each have a responsibility to financially support your children in accordance with your income and their needs. Child support may be by direct payment or by indirect benefits, such as mortgage payments, insurance or payment of medical and dental expenses. Ordinarily, the obligation to support your child ends when that child reaches age 18, marries, is emancipated, joins the armed forces or dies.

## **12. What issues can arise concerning child support?**

Some of the issues concerning child support that must be considered include:

- The amount of support.
- The method of payment.
- Ways to ensure payments are made.
- When child support may be increased or decreased.
- Who claims the dependency deduction for tax purposes.

Other questions may need to be answered, depending on the circumstances of your case. Guidelines for the amount of support apply to all cases and are based on the income of the parents and the number of children, with adjustments for substantial overnight contact.

If you have a problem receiving support payments from your spouse or former spouse, or the time-sharing plan is not being followed, you should bring this matter to the attention of the court. It is not legal to withhold time-sharing or child-support payments because either parent fails to pay court-ordered child support or violates the time-sharing schedule in the parenting plan.



Client: \_\_\_\_\_

Attorney: \_\_\_\_\_

1. Which spouse controls most of the assets? \_\_\_\_\_  
\_\_\_\_\_

2. What financial records are controlled by the client? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Is a preliminary schedule of assets and liabilities available? (If yes, attach a copy. If not, describe the major assets and liabilities of the marital estate.)  
\_\_\_\_\_  
\_\_\_\_\_

Checklist of Preliminary Documents Required:

- Tax Returns (Previous 3 Years)
- K-1s & W-2s (Previous 3 Years)
- Bank Statements (Previous 2 Years)
- Credit Card Statements (Previous 2 Years)
- Husband & Wife's Financial Affidavits
- Investment/Retirement Account Statements (Previous 2 Years)
- Mortgage Statement (Current)
- Listing of Vehicles (including statement of any outstanding notes)
- Listing of Any Personal Marital Items

4. Is a closely held business owned by either spouse? If so, describe the ownership interest.  
\_\_\_\_\_  
\_\_\_\_\_

5. Answer the following:

Name and age of husband	_____
Name and age of wife	_____
Date of marriage	_____
Date of separation	_____
State of divorce complaint	_____
Other applicable dates:	_____
_____	_____
_____	_____

Names, relationship, and ages of dependents:

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Approximate income of the parties:

Husband's salary (including bonuses, overtime, etc.)	_____
Wife's salary (including bonuses, overtime, etc.)	_____
Other income:	_____
_____	_____
_____	_____
_____	_____

Approximate net worth of the parties:

Husband's separate net worth	_____
Wife's separate net worth	_____
Marital net worth	_____

6. Does the potential client have access to sufficient separate assets to pay the professional fees, including upfront retainers that will be incurred? Briefly describe the expected payment arrangements.

\_\_\_\_\_  
\_\_\_\_\_

7. What adversarial issues does the client spouse/attorney anticipate?

\_\_\_\_\_  
\_\_\_\_\_

8. What is the reason for the divorce?

\_\_\_\_\_  
\_\_\_\_\_

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_