

Financial Expert Update

www.kentnersellers.com/expert.htm

Solutions to Financial & Information Issues in Legal, Litigation & Tax Matters

April 2005

Kentner Sellers provides litigation consulting, valuation and expert services to help make sense of complex financial, economic and information issues. To each assignment we bring experience, credibility, objectivity and creative thinking to help the attorney and their client work towards the best strategies and information solutions.

We Can Help You With...

Matters Such as These Now in Process:

- ◆ Damages from failure of the lessor to properly accept an option to purchase commercial real estate.
- ◆ Value of a business and other damages from a computer crash that stopped the business and forced a sale.
- ◆ Defense of a claim of personal injury and business damages after an auto accident affected a surgeon's schedule.
- ◆ Business value when a minority owner was not acting in the best interests of the company and the other owners.
- ◆ Estate tax filings reporting the value of three companies totaling over \$1.5 million in value in the estate, after research on the types of businesses, their expected future profits, and the applicable discounts for multi-tiered companies, lack of marketability, and lack of voting control.
- ◆ Economic damages when key employees arranged to leave a company and take important customers and employees to a competitor.
- ◆ Divorce with significant business values, benefit plan assets, spousal support, and tax-effective property settlement issues.
- ◆ Estate and succession planning, helping value ownership interests and implement a plan so a couple may gift, sell and bonus ownership to their children and to key managers.

National Valuation Expert - Pratt's Tips for Attorneys

While business valuation experts may have different styles in declaring their valuation opinions, attorneys and the courts should be able to use a fairly standard approach to assess the adequacy of a business valuation report. This is true for evaluating the lawyer's own expert's reports and for evaluating the opposing expert's report to prepare for deposition or cross-examination.

Some items attorneys and courts could look for in competent valuation reports include:

- Identification of the property being valued
- The definition or standard of value concluded in the report
- Purpose or reason for the appraisal
- Description of valuation approach and the method used
- Characteristics of ownership that affect marketability or level of control
- Basic company information and sources of that information
- Industry and transaction information and sources
- Appraiser's qualifications

Source: Shannon Pratt's *Judges & Lawyers Business Valuation Update*^(tm)



KENTNER SELLERS

EXPERT ADVICE for FINANCIAL MATTERS - CPAs Experienced in Court, Tax, & Financial Issues

- ✓ Expert Witness for Financial, Valuation & Tax Matters
- ✓ Business Valuation for Buy/Sell, Divorce, Litigation, Taxes
- ✓ Damages & Lost Profits Analysis; Financial & Tax Planning
- ✓ Over 20 Years Experience Serving Area Attorneys

In the Courts

Gifts of discounted FLP Interests from parents to children defeated in Tax Court. - In *Senda v. IRS* (July 2004 U.S. Tax Court), the Court disallowed heavily discounted gifts of stock through the use of a family limited partnership (FLP). The Tax Court focused on the partners' failures to have required meetings, the individual partners paid filing fees and were not reimbursed, and no evidence that the stock was transferred to the partnership prior to the gifts. Sloppy handling of the Partnership resulted in Federal gift taxes of about \$500,000.

Ohio Court of Appeals does not overturn, noting business values well supported by financial experts - In *Frick v. Frick*, 2004 Ohio App. Lexis 6482 (12/17/04), the court of appeals was not compelled to overturn the trial court's ruling on the value of several businesses because "each of the values advanced by both parties' experts were well reasoned and well supported... ."

Forecasts of performance okay to determine damages - In *Nip v. Checkpoint Systems, Inc.* Lexis 11281 (12/16/04), an experts conclusion of damages based on projected performance was permitted to quantify damages from a breach of contract.

Find our litigation and valuation resources at
www.kentnersellers.com/expert.htm

Valuation Solutions

Kentner Sellers delivers logical solutions to help make sense of the complex valuation issues involved with closely-held business. With years of valuation experience, we add insight into business operations and professional objectivity to help fairly analyze and communicate the options and opportunities involved with business valuation issues.

Financial Expert Solutions for Litigation Matters

Kentner Sellers can help attorneys, the courts and clients make sense of the financial and economic issues involved in legal matters and legal agreements. Our practical background in consulting and court room helps us deliver quality and timely work when you need it.



Financial Experts

Greg Toman, CPA/ABV – Greg has provided litigation and business valuation services for over 20 years, helping attorneys and clients in legal and tax matters with analysis, research, reports, investigations, and expert testimony. Greg earned the Accredited in Business Valuation (ABV) from the American Institute of CPAs, and has participated in the AICPA National Valuation or Litigation Conferences in each of the last six years.

Jon Stangel, CPA/ABV – Jon's work with family and closely held businesses gives him a special knack with business valuation, damages, profits, and ownership matters. Jon specializes in working with manufacturing and construction issues, especially in financial damage claims and lost profits issues. Jon also is Accredited (ABV). jestangel@kentnersellers.com