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## **Renee K. Howdeshell**

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### **SUMMARY**

Ms. Howdeshell specializes in financial analysis and calculations involving disputes. She works with a broad range of firms/industries in both litigation and non-litigation settings. Her usual assignments include lost profits analysis, valuation, forensic accounting, and royalty and distribution audits.

### **LICENSES AND CERTIFICATIONS**

Certified Public Accountant – California

Certified Fraud Examiner

### **EDUCATION**

Bachelor of Science, Commerce, with Concentrations in Finance and Marketing, and Secondary Major in Psychology, McIntire School of Commerce at the University of Virginia, Charlottesville, Virginia

The European Union: Social, Economic and Political Perspectives, University College of Oxford University, Oxford, England

### **EMPLOYMENT**

Fulcrum Financial Inquiry LLP; May 2002 – present.

Arthur Andersen LLP; July 1998 – May 2002

### **PROFESSIONAL ASSOCIATIONS**

Association of Certified Fraud Examiners

### **REPRESENTATIVE ENGAGEMENTS**

Created expert reports and/or trial presentations reflecting the analysis performed in the following representative engagements:

#### **Lost Profits/Business Interruptions**

- Calculated the lost profits and avoidable expenses by a construction equipment company based on allegations of interference and reasonable reliance on the representations of a supplier. Also provided expert testimony in deposition.

- Calculated the lost profits of a mobile content distribution company in the adult entertainment industry had a contract with a content supplier been extended. The review and rebuttal of opposing expert analysis was also a major component of this assignment. Also provided expert testimony in deposition and arbitration.
- Calculated lost profits and disgorgement for trademark infringement regarding lockboxes and bolts for cable television.
- Calculated lost profits under an agreement to provide screening services for pictures uploaded to a social networking website.
- Calculated the lost profits under a terminated worldwide contract to develop and market security screening equipment. Also evaluated going concern considerations for one of the parties to the contract.
- Calculated lost profits associated with an agreement to provide lead generation services for automobiles.
- Calculated reliance damages based on an actress' failure to comply with contractual requirements to participate in the publicity for a film. Also determined the fair market value of her publicity and promotional services.
- Calculated lost profits under the early termination of a lease with a Las Vegas restaurant and nightclub.
- Calculated the lost profits of a satellite television vendor as a result of alleged quality issues with a supplier.
- Calculated the lost profits of a mobile content distribution company due to the early termination of a contract to provide content.
- Determined the losses suffered by a Las Vegas hotel/casino as a result of its delayed opening and impaired goodwill, as well as the lost opportunities related to expansion plans. Analyzed expected and actual play and win rates on various casino games, the seasonal interaction of hotel occupancy and average daily rates at the hotel, and the incremental costs for each arm of the facility.
- Determined the losses suffered by the sunglasses division of a well-known sporting goods and apparel company as a result of interference by a competitor with both supplier and vendor relationships. Analyzed the reasonableness of client forecasts in determining the differential between expected and actual results of operations.
- Analyzed lost profits and performed a disgorgement calculation resulting from patent infringement by a massage table manufacturer. This assignment included analysis at various stages of distribution to encapsulate unjust enrichment at both the wholesale and retail levels.
- Investigated allegations of theft of trade secrets and customer lists by former employees of a telemarketing company selling computer supplies. The review and rebuttal of opposing expert analysis was also a major component of this assignment.
- Analyzed claims of copyright infringement and unfair business practices against an online subscription service company in the adult entertainment industry. This assignment involved an assessment of customer overlap between the two companies, actual damages suffered by the plaintiff and the reasonableness of projections set forth by the plaintiff given the market conditions and competitive landscape.

- Analyzed and responded to claimed lost profits by a car dealership for the loss of display and storage space resulting from structural damage to the lot. Analyzed industry performance, average markups and sales history to demonstrate the improbability of plaintiff's estimates of lost sales and profits.
- Acted in a neutral third party capacity to analyze the damage calculations set forth by two parties in an oil drilling arrangement. This assignment involved the interpretation of various contract provisions and the evaluation of the economic intent of the arrangement.
- Analyzed and responded to claimed lost profits from an interrupted contract to manage an Indian gaming facility.
- Determined lost profits suffered by a radio company after a former supplier began selling radios which infringed upon its patents. Also performed a disgorgement calculation of the supplier's sales.
- Calculated the lost profits of a Las Vegas convention hall and hotel/casino as a result of a broken contract to hold a prominent convention in its space.
- Analyzed and responded to claimed lost profits after the departure of a key employee resulted in a loss of customers and other employees of a title company.
- Calculated the lost profits and disgorgement damages related to patent infringement by a lighting company.
- Calculated the lost profits related to broken contract to buy food products from a supplier.
- Calculated the lost profits related to a broken contract to provide coffee making products from a supplier.
- Calculated the lost profits related to alleged marketplace confusion after former employees of a biotechnology company started their own competing company.
- Calculated the lost profits of a film production company as a result of alleged interference with their contractual relationships with their distribution company.
- Calculated the lost profits of a construction company based on alleged interference with contractual relationships by a former employee who had started a competing venture.
- Calculated the lost profits of a restaurant/bar/nightclub due to alleged harassment by local authorities.
- Calculated lost profits based on commissions due to a distributor of cosmetic products under an allegedly interrupted contract.
- Calculated lost profits associated with the incremental piracy of a satellite television provider after an alleged security breach.
- Calculated lost profits associated with an injury to the owner of a water truck company. Analyzed various incomplete and inconsistent records and activity indicators.
- Calculated lost profits and disgorgement related to the decision by a foreign language television channel distributor to cease its exclusive relationship with a satellite television provider in favor of another company.

- Calculated lost profits associated with a terminated distribution agreement to sell public address and intercom products to school districts. The incremental cost to obtain the same products through a different supply chain was also a significant component of the analysis.
- Calculated the lost profits associated with lost deposits in a banking division when a competitor bank interfered with prospective employee relationships by improperly representing the enforceability of a non-compete clause.
- Calculated the lost profits associated with defamatory email regarding an art dealer's business practices.

### **Forensic Accounting & Financial Investigations**

- Investigated claimed project costs allegedly invested by multiple entities related to a real estate development deal. Examined actions by the plaintiff against the "Badges of Fraud". Also provided expert testimony in deposition.
- Investigated a claim that a downturn in business was the basis for firing an employee on disability leave. Identified evidence of multiple sets of books, transactions that were inaccurately classified or later modified, and other information that contradicted that the company was in a cash preservation mode. Prepared a trend analysis based on alternative records and calculations related to underpayment of the employee's overtime during her tenure. Also provided expert testimony at trial.
- Traced the activities of a collections agency that had been hired to pursue medical billings. Compared reported collections against daily activity reports, extrapolated results for periods where documentation was no longer available and investigated duplication/inappropriate charging of fees. Also provided expert testimony in deposition.
- Traced the performance of various real estate investments and the distributions made to various owners. Calculated distributions due to an individual under the rules pertaining to S corporations. A significant portion of this assignment included compiling results from various, sometimes contradictory sources, such as bank statements and check copies, general ledgers and tax filings. Also provided expert testimony in deposition.
- Analyzed the system of internal controls at a company where an employee forged checks.
- Analyzed the system of internal controls at a company where an employee allegedly stole customer money orders and concealed the fraud through the financial recording process.
- Investigated claims that financial records kept in Quickbooks did not accurately reflect the activities of a custom clothing company and that a minority shareholder was being treated unfairly. This assignment also included an assessment of the company's compliance with rules pertaining to S corporations and a calculation of the change in valuation of the company while in the hands of the majority shareholders.
- Investigated various claims of misuse of the bankruptcy process, including whether the bankruptcy filing was made in good faith, the improper activities of the owner that had contributed to the financial position (including investigations of fraudulent conveyances and improper expenses), and the existence of liabilities in excess of what was reported to the court that would support the appointment of an examiner. This assignment also included an assessment of the debtors' ability to successfully emerge from bankruptcy.

- Investigated claims that financial records provided in connection with the sale of a corporate jet rental company overstated asset values.
- Calculated the amounts due to the developer and investor under a joint venture to develop and resell various properties.
- Determined the profitability of one division of a major apparel manufacturer where two employees had a profit participation interest and had alleged fraud. This assignment included constructing detailed financial statements of the division from inception and involved cost and revenue verification, cost segregation methods and the separation of a combined asset based lending arrangement with a factoring company. The review and rebuttal of opposing expert analysis was also a significant portion of this assignment.
- Analyzed the appropriateness of certain transactions under Generally Accepted Accounting Principles for a technology company where allegations had been raised against management under the Sarbanes-Oxley Act. The transactions involved the appropriateness of revenue recognition under various circumstances, including advertising barter, alleged circular transactions, related party transactions and revenues that were the subject of litigation. Also calculated damages suffered by the company as a result of excessive salaries, bonuses, restricted stock, stock options and other formulaic amounts paid to the executives involved, as well as legal fees and settlements costs.
- Analyzed the appropriateness of a dividend distribution to an owner under California Corporations Code given the financial position of the company on the date of the distribution and the company's subsequent sale and ultimate bankruptcy.
- Investigated allegations of below cost pricing by a well-known bicycle manufacturer. This assignment required detailed cost build ups of various products and analysis of the competitive landscape.
- Performed investigative testing and cost verification in a lawsuit between a contractor, various sub-contractors and the City of Los Angeles regarding the building of a waste treatment plant.
- Analyzed investments and payments and calculated profits related to various real estate partnerships and promissory notes over a twenty year period. This assignment involved the detailed construction of financial records from various incomplete sources of records.
- Tracked the financial performance of a medical company and identified questionable expenditures by a fiduciary. Also calculated the potential amount due to a shareholder under a contractual buyout provision.
- Investigated allegations of below cost pricing by one of the largest in-store music providers. Created detailed cost build ups of various products which included analysis of all direct and indirect expenses and determination of costs drivers for allocation purposes. This assignment also included determining lost profits due to a lost contract with a large drug store chain resulting from the below cost pricing.
- Tracked the earnings of a trust with ownership in multiple oil and entertainment companies and the appropriateness of allocations and distributions to various beneficiaries.
- Calculated the investments by and profits due to the individual partners under an agreement to jointly buy, improve and sell various properties.
- Traced the financial performance of various companies and accounts over decades in order to establish the total amount under dispute in a domestic partnership.

- Traced the investments in and expenditures of an internet incubator company. Also performed a study of the success rate of similar entities during the same time period.

### **Royalty, Distribution and Contractual Compliance Audits**

- Performed a distribution audit on behalf of a major motion picture studio in light of a domestic and international distribution agreement with another major studio. This assignment involved visiting major distribution centers and performing onsite examinations of records and assisting in negotiations based on the multi-millions of dollars in findings.
- Performed multiple royalty audits on behalf of a patent holder for medical equipment. This assignment required application of the divergent terms of multiple contracts as a result of industry consolidation. Extrapolation for missing data was also a factor.
- Audited a cable network's compliance with the terms of a Most Favored Nation's provision in its contract with a satellite television provider.
- Audited the Most Favored Nations provision of a contract between a satellite television provider and a cable network. Also calculated lost profits to the satellite provider under an abandoned joint promotional effort.
- Analyzed compliance with a shelf space requirement in a contract for video on demand distribution. Prepared a damage calculation to value shortfalls. Also analyzed lost profits associated with a failure to air advertising spots and a failure to comply with a non-compete provision.
- Analyzed participation statements related to a popular premium cable series.

### **Advisory Services & Valuations**

- Determined the net operating income of a large commercial building and evaluated purchase offers in relation to the property's value as a hotel, retail space, office space or mixed use building. Also provided expert testimony in deposition.
- Determined the fair value for publishing rights for a photograph of a local celebrity and any reduction in the photograph's value as a result of publication. Also performed a disgorgement calculation regarding the additional profits derived from its usage in a magazine in relation to a copyright infringement claim. Provided expert testimony at trial.
- Examined the circumstances surrounding the loss in value of a company following its acquisition and the subsequent loss of a key customer. Analyzed information available to buyer and seller prior to the acquisition to address the appropriateness of disclosures and the potential impact on the value.
- Calculated the loss in value of a company when the seller failed to comply with an ongoing employment contract. An examination of the representations made by the seller regarding the company's prospects prior to the acquisition was also a component of this assignment.
- Calculated the loss in value associated with the shuttering of a regional sports network.
- Calculated the value of a Major League Baseball team.
- Determined the fair market value of an adult entertainment company in order to determine the amount owed to an owner who claimed to have been forced out of the company.

- Evaluated two proposals governing the distribution of regional sports programming to determine which was more consistent with fair market value based on a statistical analysis of comparable contracts. Specifically analyzed the impact of a Most Favored Nations provision in one of the proposals.
- Analyzed the appropriate level of cash required for the ongoing operations of a business that had impaired borrowing ability due to a dispute between its two major shareholders.
- Assisted the Internet Corporation for Assigned Names and Numbers ("ICANN") to assess the viability of 44 different business models for introducing new top-level domains similar to .com, .net and .org. Analyzed the potential market, the revenue model, the marketing plan and assessed the availability of resources to meet the plan.
- Performed competitive landscape analysis on behalf of a Fortune 500 information technology distributor for corporate strategy purposes. The market assessment analyzed the changes in the distribution patterns for various product categories and assessed this impact upon the client.
- Analyzed fulfillment costs of cell phone warranty protection program and conducted a market study of cell phone prices and activation costs for new and used equipment. Also determined a reasonable profit rate for the industry.
- Analyzed various fees charged by a ticket distribution company to determine whether they represented the value of the services provided and/or approximated the actual cost to the company of providing those services.
- Calculated a theft loss related the merger of two multi-billion dollar public companies. Determined the fair market value on the merger date of the entity where fraud was alleged had all material facts been known. This assignment also included re-creation and adjustment to various models used by the investment bank who served as the advisor in the transaction.
- Analyzed the amounts due to the purchaser of a business under a purchase price adjustment provision of a sale contract related to changes in working capital between the date of the agreement and the date the transaction closed.
- Performed multiple business valuations and lost profit calculations for the commercial residents of a building after an incident with the electrical transformer.