

## forensics - what's the solution?

what's the cause?

what's it about?

what it does!

### family law

- ▶ Matrimonial break down causes a need to:
  - Value a family business
  - Value a superannuation interest
  - Consider the tax implications of proposed property settlements
  - Assess the ability of a parent to provide adequate child support
  - Trace and locate assets
  - Review and comment on other expert reports
- ▶ The forensic expert is appointed by either one of the parties, as a single expert or as a shadow expert to review and comment on another expert's report
- ▶ By reviewing all of the appropriate and available financial information, the forensic expert will provide an unbiased opinion to assist the parties to reach an agreement or failing that, to assist the Court in deciding the various issues before it
- ▶ Using their extensive experience, the forensic expert can also advise the parties and/or their respective lawyers on the best means to achieve an equitable and tax effective settlement structure.
- ▶ Quantifies the size of the matrimonial property pool
- ▶ Provides the appropriate financial support for the children of the former spouses
- ▶ Locates assets that one spouse may be trying to hide
- ▶ Minimises tax
- ▶ Can reduce costs and speed up a settlement allowing former spouses to move on with their lives

### insurance law

- ▶ When an insurable event occurs, such as professional negligence on the part of an accountant, medical practitioner or other professional adviser, leads to a loss being suffered, there will be a need to quantify that loss
- ▶ In certain states, when a motor vehicle or workplace accident occurs and a person suffers an injury there is a need to quantify that loss
- ▶ When a motor vehicle or workplace accident occurs and a person suffers an injury there is a need to quantify that loss
- ▶ The past and future losses allegedly incurred will be assessed by comparing the notional cash flows that would have been derived had it not been for the insurable event to the residual cash flows that have in the past and will in the future be derived
- ▶ The forensic expert will also need to take account of the risk associated in deriving those cash flows and their net present value at the appropriate date
- ▶ By independently and with the absence of any bias, the forensic expert will assist either the parties coming to a fair and equitable agreed settlement or if this cannot be achieved assist the Court in determining a fair and reasonable award for damages
- ▶ The appointment of an independent forensic expert will also often lead to a more timely and therefore more cost effective settlement of the matter

### commercial litigation support

- ▶ Independent financial advice is often required to effectively put forward a plaintiff's or defendant's case
- ▶ There will be a need to untangle complex business issues and transactions that have led to the litigation mediation or arbitration
- ▶ These needs arise in contract disputes, franchise disputes, shareholder and partnership disputes, disputes over value of certain assets or businesses and disputes arising from false and misleading representations made by one party to another
- ▶ By reviewing all of the financial transactions and records, the forensic expert can prepare a report which sets out the position that one party wishes to argue with the other party during mediation or in Court. This will often include the need to reconstruct the accounts of the entities involved, which may be convoluted, extremely complex and include a web of associated entities
- ▶ The forensic expert will then prepare a report which can be used to either support or defend the litigants arguments
- ▶ The dispute can also give rise to a conclave of experts, where a short list of agreed and disagreed issues are prepared by both experts jointly
- ▶ The forensic accountant will often be required to give evidence and be cross-examined in Court if the matter does not settle
- ▶ The appointment of a forensic expert will demystify complex and confusing financial transactions, assist the lawyers quantify their statement of claim or argue the defense of the opposing party's claims
- ▶ In the event that the dispute reaches a Court, the forensic expert has a duty and responsibility to assist the Court in understanding the financial issues of the matter before it
- ▶ The conclave of experts will reduce the number of issues in dispute that need to be decided by the court

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### fraud and crime

- ▶ When an accusation of fraud is made, there will be a need to deal with the perpetrator, recover the loss to whatever extent is possible and to prevent any recurrence
- ▶ When the authorities seek to confiscate assets that are allegedly the proceeds of crime, there is a need for the authorities to make a strong evidence-based case to support their claim. At the same time the accused may wish to defend the claim by trying to prove that the proceeds are not proceeds of crime
- ▶ The forensic expert will examine the financial records of the entity that is alleging that a fraud has been committed. The procedures will include reviewing various reconciliations tracing cash and other assets, conducting data analytic procedures on data such as creditor's and debtor's files payroll records including bank account numbers asset registers and payment files
- ▶ Internal controls will be reviewed to detect how the fraud occurred and recommendations will be made to increase their strength to prevent recurrence
- ▶ Various reports will be prepared, such as a brief of evidence to be handed to police, a report may be prepared to support an insurance claim if fraud cover had been taken out. In the case of the fraudster having available assets a report may be required to support civil proceedings for recovery
- ▶ In the majority of cases a police forensic accountant will prepare a report supporting the claim to have the assets of an accused confiscated under the proceeds of crime act. A private forensic expert is often engaged by an accused to show that their legitimate business interests have given rise to the acquisition of the assets that the authorities are seeking to confiscate.
- ▶ The evidence provided by the forensic expert will:
  - assist in assessing the monetary value of the fraud
  - identify the perpetrator
  - identify the manner in which the fraud was committed
  - identify any internal control weaknesses and how these can be strengthened to prevent a re-occurrence.
- ▶ The acquired body of evidence will assist in either obtaining a conviction or clearing an innocent party of wrongdoings and may assist in recouping stolen or confiscated assets

### due diligence

- ▶ To assist banks or other lenders in gaining comfort on asset values and earnings of a business
- ▶ To assist a prospective purchaser in gaining comfort that the financial statements of a business are materially correct
- ▶ Agree on a due diligence checklist with the engaging party
- ▶ Perform testing procedures
- ▶ Balance sheet verification
- ▶ Key profit and loss item verification
- ▶ Communicate any risks of the business (if found) to the engaging party
- ▶ Assists a bank or other lender in assessing a business
- ▶ Assists a prospective purchaser in assessing a business