



BFLG'S TIPS ON CHALLENGING A BUSINESS VALUATION REPORT

Challenging an expert business valuation report is both an art and a science. The science lies in mastering the governing legal principles and the expert's own internal logic. The art lies in knowing how to expose weakness persuasively and strategically: identifying where the expert has overreached, relied on incomplete disclosure, or strayed from independence into advocacy.

Here are some useful tips to demonstrate why expert business valuation report may be unreliable, incomplete, or insufficiently objective to deserve the court's reliance.

In the arena of business valuation, there are 3 different valuation models to determine the value of a business:

1. **ASSET APPROACH:** Where the expert identifies and values all assets, liabilities, contingent liabilities, receivables, payables, non-physical assets and goodwill.
2. **INCOME APPROACH:** Where the expert identifies and values cash flow, earnings, projections, capitalization of cash flow and earnings, normalizes earnings and cash flow and determines capitalization rate.
3. **MARKET APPROACH:** Where the expert identifies and utilizes comparable businesses, public versus private companies, and their comparable revenue, cash flow, EBITDA, income (historical versus projected), adjustments, marketability, discounts, controlling ownership versus non-controlling stock, pre-IPO and marketability discounts.

Here are the areas to challenge an expert business valuation report:

1. Expert made unreasonable assumptions
2. Expert had no/poor evidentiary support for assumptions
3. Expert relied upon unproven assumptions
4. Expert used wrong standards
5. Expert made mathematical errors
6. Expert made technical errors
7. Expert used incorrect data
8. Expert used outdated data
9. Expert missed key economic data
10. Expert misinterpreted key economic data
11. Expert failed to consider differing models
12. Expert over-relied on one method or model
13. Expert normalized adjustments
14. Expert failed to examine comparables
15. Expert relied upon unsupportable long-term growth rate
16. Expert misapplied marketability discounts
17. Expert failed to account for owners' compensation
18. Expert failed to account for personal discretionary expenses
19. Expert failed to account for related party transactions
20. Expert lacks independence
21. Expert lacks qualifications

Steve Benmor, B.Sc., LL.B., LL.M. (Family Law), C.S., is the founder and principal lawyer of Benmor Family Law Group, a boutique matrimonial law firm in downtown Toronto. He is a Certified Specialist in Family Law and was admitted as a Fellow to the prestigious International Academy of Family Lawyers. Steve is regularly retained as a Divorce Mediator, Arbitrator and Parenting Coordinator. As a Divorce Mediator, Steve uses his 30 years of in-depth knowledge of family law, court-room experience and expert problem-solving skills in Divorce Mediation to help spouses reach fair, fast and cooperative divorce settlements without the financial losses, emotional costs and lengthy delays from divorce court. You can find his CV at https://benmor.com/wp-content/uploads/2022/11/Steve_CV.pdf. He can be reached at steve@benmor.com