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## Reviews

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# Reviews

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## Forensic Accounting — The Accountant as Expert Witness

by Francis C. Dykeman, John Wiley & Sons, New York, New York, 1982.

Sitting in front of a judge, jury, and opposing attorney, debating (or defending) a particular accounting principle or application seems to be a recurring fear of many CPAs. Francis C. Dykeman deals with these fears in his book, *Forensic Accounting*, as they concern the litigation situation where the accountant is being called upon to share his knowledge as an expert accounting witness.

Mr. Dykeman appears well-qualified to author this type of book, which evolves as a handbook for the potential expert witness. He is a CPA in three states, an Attorney at Law in New York, and a retired partner of Price Waterhouse with a list of impressive credentials including service as an expert accounting witness.

Mr. Dykeman attempts to prepare the potential expert witness for the possible situations he will face on the witness stand. He first describes the general environment of the judicial process as both an adversary and decision-making activity. The role of

the expert accounting witness is to assist the judge and jury in assembling, analyzing, interpreting and presenting the vast body of facts present in most business litigation cases. Once on the witness stand, the expert witness must have the ability to answer questions quickly and accurately without the benefit of deliberation or consultation with other colleagues.

The witness must be very knowledgeable in his or her area of expertise yet able to communicate with a judge and jury on a level which is easy for them to understand. He must be very creative, organized and flexible, and must be able to withstand the pressure of extensive cross-examination. In contrast to a regular witness, the expert witness is not limited to testimony on facts or opinions developed directly from facts known directly to the witness, but also on facts known to others, thus increasing the skill required of the expert witness in organizing and using available information.

Direct testimony is most often the primary role of the expert witness. The accountant may be called on to be a witness for either the plaintiff or the defendant. As a witness for the plaintiff, the accountant will usually be developing information from the books of the plaintiff to quantify alleged damages, often through use of mathematical models. Preparation of the testimony for the defendant can be "...a burdensome and complex undertaking" because the records of the plaintiff must be used in a more creative approach to develop alternate damage estimates. The author presents several clear examples of cases involving the development of direct testimony which include exhibits of charts and graphs which could be used to explain the testimony.

Accountants also can be very helpful in the areas of negotiating settlements and disbursing awards. Since most litigation is settled before it actually reaches the courts, there is a great need for accountants to assist business executives in negotiating these settlements. Negotiating is "... a decision-making process largely concerned with the establishment of a monetary value to settle a dispute." The author offers two possible approaches to settlement negotiations, a pragmatic and a mathematical approach, complete with suggested steps and examples. Though often forgotten in litigation, the area of disbursing cash awards, particularly in class action suits, provides opportunity for accounting services. The author gives an example of a class action suit in which a \$39,600,000 settlement fund was to be distributed to 885,000 members of the class action. Quantitative and statistical techniques are particularly helpful in this area where the objective is to obtain swift, efficient distribution at the lowest possible cost.

In order to ease the anxiety of the potential expert witness, the author provides extensive background material on the legal system itself, including the roles of the attorneys, judge and jury, courtroom procedures, and legal history. Also included are glossaries of legal and accounting terminology and a topical index.

Mr. Dykeman has succeeded in writing a very clear readable book. *Forensic Accounting* provides valuable reference material for those accountants who may be called upon by clients or attorneys to serve as expert witnesses. In addition, it provides valuable insight from the viewpoint of a well-informed accountant and attorney into the judicial system as it may affect our clients.

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