STEVEN SMITH M.D., AND STEVEN SMITH M.D., P.A.

v.

SOME BROADCASTING CORPORATION
OF FLORIDA; WELL-KNOWN CHANNEL INTERACTIVE NEWS L.L.C.
AND JANE ELLEN ROBERTS

DAMAGES REPORT
June 5, 2007

Nixon & Agnew, P.A.
100 Northwest 14th Street
Miami, FL 33333
Attn: Brian Nixon, Esq.


Dear Mr. Nixon:

Pursuant to your request, we have performed an economic damage analysis with respect to the lost profits resulting from the alleged actions of the Defendants. As explained in the attached report, our opinions and bases for those opinions result in a calculation of damages of:

THREE MILLION, ONE HUNDRED EIGHT THOUSAND, ONE HUNDRED AND THIRTY DOLLARS ($3,108,130)

My professional qualifications are attached.

Very truly yours,

TRUGMAN VALUATION ASSOCIATES, INC.

Gary R. Trugman
CPA*/ABV, MCBA, ASA, MVS

GRT/kag
Attachment

*Regulated by the State of Florida
INTRODUCTION

Trugman Valuation Associates, Inc. was retained by Brian M. Nixon, Esq. to perform litigation services and calculate the economic damages that have been suffered by Steven Smith, M.D. and Steven Smith, M.D., P.A. These damages are calculated as part of the defamation lawsuit entitled Steven Smith, M.D., and Steven Smith, M.D., P.A. v. Some Broadcasting Corporation of Florida; Well-Known Channel Interactive News L.L.C. and Jane Ellen Roberts, filed in the Circuit Court of the 18th Judicial Circuit in and for Some County, Florida, Case No. 00-12345 CA.

DAMAGES REPORT

This report calculates damages sustained by Dr. Smith and his medical practice ("The Practice") as a result of the alleged actions of Some Broadcasting Corporation of Florida, Well-Known Channel Interactive News L.L.C. and Jane Ellen Roberts. This report assumes that liability exists based on the actions of one or more of the Defendants. There has been no attempt to isolate damages caused by any one Defendant. Damages have been calculated to be at least $3,108,130.

DOCUMENTS REVIEWED

In order to perform this assignment, the following documents were reviewed and relied on:

1. Copy of the Amended Complaint filed in this action.
2. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

3. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

4. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,
P.A. for the year ended December 31, 1999.

5. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

6. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

7. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,
P.A. for the year ended December 31, 2002.

8. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

9. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,

10. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,
P.A. for the year ended December 31, 2005.

11. Form 1120, U.S. Income Tax Returns for an S Corporation for Steven Smith, M.D.,
P.A. for the year ended December 31, 2006.


21. Form W-2 for Dr. and Mrs. Smith for the year ended December 31, 2006.


27. Other referenced made throughout this report.
Dr. Smith is a cosmetic surgeon who has had a medical practice in the Some City, Florida area since 1972. He is currently the Chairman of the Board of Governors and past President of the Aesthetic Surgery Education and Research Foundation. Prior to the actions of the Defendants, Dr. Smith enjoyed a good reputation among his peers and patients. In fact, his practice has been voted the best by *The News*, a local newspaper with a daily readership of more than 210,000.

Damages have been determined based on the underlying documentation that was reviewed in this matter. We have assumed that liability will be proven, and we are not offering any opinion regarding the legal claims. It is possible that this report will have to be updated to include additional information that may be provided to us.

In order to estimate damages, the following information was used:

<table>
<thead>
<tr>
<th>Item</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Begin Date of Defamation</td>
<td>May 12, 2000</td>
</tr>
<tr>
<td>Estimated Trial Date</td>
<td>October 1, 2007</td>
</tr>
<tr>
<td>Dr. Smith’s Birth Date</td>
<td>July 12, 1941</td>
</tr>
<tr>
<td>Age on Date of Defamation</td>
<td>58.83 Years</td>
</tr>
<tr>
<td>Work Life Expectancy¹</td>
<td>9.16 Years</td>
</tr>
<tr>
<td>Retirement Age</td>
<td>67.99 Years</td>
</tr>
</tbody>
</table>

The damages suffered by Dr. Smith and The Practice are being calculated as one set of figures, as a separation among the Plaintiffs would be illogical. In our opinion, The Practice is the alter-ego of Dr. Smith, and as such, should be treated as a single unit for the calculation of defamation damages.

The damages suffered by Dr. Smith and The Practice can best be measured by the difference in the actual earnings of the Plaintiffs from the projected normal earnings of the Plaintiffs, *but for* the actions of the Defendants. In order to perform these calculations, revenues and earnings have to be projected, both under current conditions and what they would have been *but for* the actions of the Defendants. In order to do this, several items need to be determined. They are as follows:

1. Revenue projections “as damaged.”
2. Earnings projections “as damaged.”
3. Revenue projections “as if no damage.”
4. Earning projections “as if no damage.”

Each of these items will be addressed as the report proceeds. We begin with an historical analysis of The Practice.

As per the tax returns, the actual reported historical practice revenues were as follows:
The table above reflects modest growth from 1997 to 1998, with a considerable growth in revenues in 1999. During the year in which the defamation took place (2000), The Practice experienced a considerable drop in revenues, followed by another year of decreased revenues (2001). The Practice revenues fell to almost one-half of its historical level from 1999.

Since cosmetic plastic surgery practices can be influenced by the disposable income of the patients, we analyzed the economic factors that could have caused a decrease in revenues other than the defamation actions of the Defendants.

The U.S. economy began the millennium with an array of negative events. In 2000, the economy was moving towards a shallow recession due to the burst of the high-tech bubble of the 1990s. The effects of ethical issues such as corporate fraud, a decline in value of the equity markets, a reduction in capital spending, and the terrorist attacks of September 11, 2001, all had a negative impact on the economy. Surprisingly, consumption and residential investment continued to grow throughout the recession. In the following two
years, the U.S. economy remained soft, but began recovering by posting moderate economic growth.¹

There was a 775 percent increase in cosmetic plastic surgery procedures from 1992 to 2005; 151 percent since 2000. The number of procedures for select years is contained in Table 1.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Procedures</th>
<th>Annual Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>389,024</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>622,366</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>937,490</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>1,008,140</td>
<td>7.5%</td>
</tr>
<tr>
<td>2000</td>
<td>1,254,986</td>
<td>24.5%</td>
</tr>
<tr>
<td>2001</td>
<td>1,819,602</td>
<td>45.0%</td>
</tr>
<tr>
<td>2002</td>
<td>2,036,794</td>
<td>11.9%</td>
</tr>
<tr>
<td>2003</td>
<td>2,878,212</td>
<td>41.3%</td>
</tr>
<tr>
<td>2004</td>
<td>3,111,309</td>
<td>8.1%</td>
</tr>
<tr>
<td>2005</td>
<td>3,404,445</td>
<td>9.4%</td>
</tr>
</tbody>
</table>

Average Growth (1998-2005) 21.1%
Source: American Society of Plastic Surgeons (ASPS)

In the years 2000 and 2001, while the economy was in a recession, the number of cosmetic plastic surgery procedures increased by approximately 25 and 45 percent, respectively, for ASPS member surgeons. This is shown graphically as follows:

During this time frame, fees charged for procedures changed dramatically. An analysis of the national average fees per procedure is summarized in Table 2.
TABLE 2
YEAR-TO-YEAR CHANGE IN AVERAGE FEES
(ALL BOARD CERTIFIED PLASTIC SURGEONS)

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Fee</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$2,474</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>2,553</td>
<td>3.2%</td>
</tr>
<tr>
<td>1999</td>
<td>2,571</td>
<td>0.7%</td>
</tr>
<tr>
<td>2000</td>
<td>1,995</td>
<td>-22.4%</td>
</tr>
<tr>
<td>2001</td>
<td>2,027</td>
<td>1.6%</td>
</tr>
<tr>
<td>2002</td>
<td>2,224</td>
<td>9.7%</td>
</tr>
<tr>
<td>2003</td>
<td>2,168</td>
<td>-2.5%</td>
</tr>
<tr>
<td>2004</td>
<td>2,072</td>
<td>-4.4%</td>
</tr>
<tr>
<td>2005</td>
<td>2,263</td>
<td>9.2%</td>
</tr>
</tbody>
</table>

* Unweighted average fee per procedure.

In 2000, the sharp decline in average fee per procedure was due to the introduction of six new minimally invasive procedures where the highest average fee was $403. The new procedures impacted the industry as shown in Table 3.

TABLE 3
NEW 2000 PROCEDURES
(ALL BOARD CERTIFIED PLASTIC SURGEONS)

<table>
<thead>
<tr>
<th>Procedure</th>
<th>2000 Total Fees</th>
<th>2000 National Avg. Fee</th>
<th>Number of Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botox ®</td>
<td>$287,967,173</td>
<td>$366</td>
<td>786,796</td>
</tr>
<tr>
<td>Cellulite treatment</td>
<td>7,425,120</td>
<td>310</td>
<td>23,952</td>
</tr>
<tr>
<td>Laser hair removal</td>
<td>296,606,388</td>
<td>403</td>
<td>735,996</td>
</tr>
<tr>
<td>Laser treatment of leg veins</td>
<td>84,916,704</td>
<td>346</td>
<td>245,424</td>
</tr>
<tr>
<td>Microdermabrasion</td>
<td>170,189,740</td>
<td>196</td>
<td>868,315</td>
</tr>
<tr>
<td>Sclerotherapy</td>
<td>198,441,095</td>
<td>229</td>
<td>866,555</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$1,045,546,220</strong></td>
<td></td>
<td><strong>3,527,038</strong></td>
</tr>
</tbody>
</table>
During the period analyzed, the number of procedures grew while the average fee per procedure decreased. However, despite this phenomena, Physician Gross Charges grew in the years 2000 and 2001, as illustrated in Table 4.

**TABLE 4**
YEAR TO YEAR CHANGE IN

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Procedures</th>
<th>Average Physician Fees</th>
<th>Physician Gross Charges¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>*</td>
<td>3.2%</td>
<td>7.5%</td>
</tr>
<tr>
<td>1999</td>
<td>7.5%</td>
<td>0.7%</td>
<td>-0.7%</td>
</tr>
<tr>
<td>2000</td>
<td>24.5%</td>
<td>-22.4%</td>
<td>2.6%</td>
</tr>
<tr>
<td>2001</td>
<td>45.0%</td>
<td>1.6%</td>
<td>5.7%</td>
</tr>
<tr>
<td>2002</td>
<td>11.9%</td>
<td>9.7%</td>
<td>-2.4%</td>
</tr>
<tr>
<td>2003</td>
<td>41.3%</td>
<td>-2.5%</td>
<td>13.2%</td>
</tr>
<tr>
<td>2004</td>
<td>8.1%</td>
<td>-4.4%</td>
<td>18.0%</td>
</tr>
<tr>
<td>2005</td>
<td>9.4%</td>
<td>9.2%</td>
<td>-1.8%</td>
</tr>
</tbody>
</table>

* Not calculable due to unavailable data for 1997.

¹ Source: American Medical Group Association.

The conclusion reached from this analysis is that despite a weakening economy, the overall trends for cosmetic plastic surgeons was positive. Therefore, this analysis does not support the fact that the decreased revenues suffered by The Practice were attributable to economic factors.

Net income of The Practice fluctuated from year to year, but this is customary with the nature of a closely-held business. The fluctuations are predominantly caused by the amount of salary taken by Dr. and Mrs. Smith. The Form W-2 earnings for Dr. and Mrs. Smith were as follows:
TABLE 5
FORM W-2 INCOME

<table>
<thead>
<tr>
<th>Year</th>
<th>Dr. Smith</th>
<th>Mrs. Smith</th>
<th>Total</th>
<th>Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$202,500</td>
<td>$90,405</td>
<td>$292,905</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>180,000</td>
<td>124,980</td>
<td>304,980</td>
<td>4.1%</td>
</tr>
<tr>
<td>1999</td>
<td>196,000</td>
<td>122,000</td>
<td>318,000</td>
<td>4.3%</td>
</tr>
<tr>
<td>2000</td>
<td>150,000</td>
<td>42,000</td>
<td>192,000</td>
<td>-39.6%</td>
</tr>
<tr>
<td>2001</td>
<td>62,500</td>
<td>13,500</td>
<td>76,000</td>
<td>-60.4%</td>
</tr>
<tr>
<td>2002</td>
<td>64,500</td>
<td>11,500</td>
<td>76,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>2003</td>
<td>101,500</td>
<td>51,350</td>
<td>152,850</td>
<td>101.1%</td>
</tr>
<tr>
<td>2004</td>
<td>100,000</td>
<td>50,000</td>
<td>150,000</td>
<td>-1.9%</td>
</tr>
<tr>
<td>2005</td>
<td>100,000</td>
<td>50,000</td>
<td>150,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>2006</td>
<td>100,000</td>
<td>50,000</td>
<td>150,000</td>
<td>0.0%</td>
</tr>
</tbody>
</table>

Here, we see that W-2 income for the Smiths, similar to revenues of The Practice, took a sharp drop in 2000 and 2001. As of 2006, their personal income still had not reached 50 percent of 1999's earnings. We will explain more about these salaries later in this report.

REVENUE PROJECTION “AS DAMAGED”

The first step in the damages calculation is to project revenues through the end of Dr. Smith's work life expectancy based on actual results through 2006, the most recent year available. This appears in Table 6.
**TABLE 6**
**STEVEN SMITH MD, P.A.**
**REVENUE PROJECTIONS “AS DAMAGED”**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As Damaged”</th>
<th>Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$588,891</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>598,747</td>
<td>1.7%</td>
</tr>
<tr>
<td>1999</td>
<td>714,041</td>
<td>19.3%</td>
</tr>
<tr>
<td>2000</td>
<td>534,037</td>
<td>-25.2%</td>
</tr>
<tr>
<td>2001</td>
<td>380,573</td>
<td>-28.7%</td>
</tr>
<tr>
<td>2002</td>
<td>506,904</td>
<td>33.2%</td>
</tr>
<tr>
<td>2003</td>
<td>530,680</td>
<td>4.7%</td>
</tr>
<tr>
<td>2004</td>
<td>659,563</td>
<td>24.3%</td>
</tr>
<tr>
<td>2005</td>
<td>558,496</td>
<td>-15.3%</td>
</tr>
<tr>
<td>2006</td>
<td>594,149</td>
<td>6.4%</td>
</tr>
<tr>
<td>2007</td>
<td>636,178</td>
<td>7.1%</td>
</tr>
<tr>
<td>2008</td>
<td>660,779</td>
<td>3.9%</td>
</tr>
<tr>
<td>2009</td>
<td>685,381</td>
<td>3.7%</td>
</tr>
</tbody>
</table>

a = Actual from corporate tax return.

f = Forecast.

Revenues were projected using a linear forecast. Since the object of this calculation is to determine what The Practice will generate “as damaged,” the base period for the forecast was 2000 through 2006. This period eliminates the actual “undamaged” periods (from 1997-1999) in the projection. This results in projected revenues that are based on Practice revenues since the date of the damage.
EARNINGS PROJECTIONS “AS DAMAGED”

Before projecting the earnings that can be used in the damage calculations, we needed to determine what historical earnings were. In a situation where a single practitioner, or the corporation controlled by that practitioner, employs his spouse, their combined incomes in addition to The Practice’s net income should be considered the earnings of the entire unit (the sum of the individuals and the entity). However, in this case, Mrs. Smith is not a party to the lawsuit. As a result, earnings are defined as Dr. Smith’s earnings plus The Practice’s earnings.

A closer analysis of Dr. Smith’s salary reveals a shifting of income to Mrs. Smith. This was done because Dr. Smith had reached his maximum pension contribution amount, while Mrs. Smith had not. This type of income shifting is quite common among married individuals who look to maximize a pension contribution. However, in order to determine the economic damages, we must only consider a reasonable amount of compensation for the services rendered by Mrs. Smith, a working employee of The Practice. These dynamics affect the “true earnings” of Dr. Smith.

Mrs. Smith worked in The Practice as an Esthetician and was also responsible for the marketing. Several sources were used to determine reasonable compensation for Mrs. Smith. We used several salary surveys looking at Esthetician and Marketing Positions separately. The ranges for these positions were from $17,000 to $47,000. We also contacted the International School of Skin and Nail Care, which provided us with a range of $35,000 to $50,000. Reasonable compensation for Mrs. Smith’s responsibilities was determined to be $50,000 in 2006, and then deflated by 3 percent annually for prior periods. Earnings are recalculated in Table 7.
### TABLE 7
**RECALCULATED EARNINGS**

<table>
<thead>
<tr>
<th>Year</th>
<th>Reported Practice Earnings “As Damaged”</th>
<th>Smiths’ Compensation “As Damaged”</th>
<th>Reasonable Compensation for Mrs. Smith’s Services</th>
<th>Earnings Before Compensation “As Damaged”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$27,477</td>
<td>$292,905</td>
<td>$38,012</td>
<td>$282,370</td>
</tr>
<tr>
<td>1998</td>
<td>$(9,414)</td>
<td>304,980</td>
<td>39,187</td>
<td>256,379</td>
</tr>
<tr>
<td>1999</td>
<td>2,777</td>
<td>318,000</td>
<td>40,399</td>
<td>280,378</td>
</tr>
<tr>
<td>2000</td>
<td>59,299</td>
<td>192,000</td>
<td>41,649</td>
<td>209,650</td>
</tr>
<tr>
<td>2001</td>
<td>26,299</td>
<td>76,000</td>
<td>42,937</td>
<td>59,361</td>
</tr>
<tr>
<td>2002</td>
<td>116,748</td>
<td>76,000</td>
<td>44,265</td>
<td>148,483</td>
</tr>
<tr>
<td>2003</td>
<td>2,114</td>
<td>152,850</td>
<td>45,634</td>
<td>109,330</td>
</tr>
<tr>
<td>2004</td>
<td>$(44,512)</td>
<td>150,000</td>
<td>47,045</td>
<td>58,443</td>
</tr>
<tr>
<td>2005</td>
<td>63,166</td>
<td>150,000</td>
<td>48,500</td>
<td>164,666</td>
</tr>
<tr>
<td>2006</td>
<td>106,156</td>
<td>150,000</td>
<td>50,000</td>
<td>206,156</td>
</tr>
</tbody>
</table>

Now that historic earnings have been restated, the next step is to project earnings to the end of Dr. Smith’s expected work life. First, we looked at historical earnings in relation to revenues. The average earnings, as a percent of revenues was 25.4 percent for the years 2000 through 2006. Applying this to the revenues projected in Table 6, results in the earnings projections reflected in Table 8.
TABLE 8
EARNINGS PROJECTIONS “AS DAMAGED”

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As Damaged”</th>
<th>Earnings Before Compensation “As Damaged”</th>
<th>Earnings as % of Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$534,037</td>
<td>$208,362</td>
<td>39.0%</td>
</tr>
<tr>
<td>2001</td>
<td>380,573</td>
<td>58,033</td>
<td>15.2%</td>
</tr>
<tr>
<td>2002</td>
<td>506,904</td>
<td>147,114</td>
<td>29.0%</td>
</tr>
<tr>
<td>2003</td>
<td>530,680</td>
<td>107,919</td>
<td>20.3%</td>
</tr>
<tr>
<td>2004</td>
<td>659,563</td>
<td>56,988</td>
<td>8.6%</td>
</tr>
<tr>
<td>2005</td>
<td>558,496</td>
<td>163,166</td>
<td>29.2%</td>
</tr>
<tr>
<td>2006</td>
<td>594,149</td>
<td>206,156</td>
<td>34.7%</td>
</tr>
</tbody>
</table>

Average 25.4%

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As Damaged”</th>
<th>Earnings Before Compensation “As Damaged”</th>
<th>Earnings as % of Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>f 636,178</td>
<td>161,582</td>
<td>25.4%</td>
</tr>
<tr>
<td>2008</td>
<td>f 660,779</td>
<td>167,830</td>
<td>25.4%</td>
</tr>
<tr>
<td>2009</td>
<td>f 685,381</td>
<td>174,079</td>
<td>25.4%</td>
</tr>
</tbody>
</table>

a = Actual.
f = Forecast.

These projected earnings reflect the earnings expectations for Dr. Smith and The Practice, on a combined basis, as expected to continue into the future after the defamation took place. This is considered the “as damaged” state.

REVENUE PROJECTIONS “AS IF NO DAMAGE”

In this section, we estimate what revenues would have been, but for the actions of the Defendants. We first analyzed the data for the three years preceding the date of the defamation. This is the earliest information that was available for The Practice. This data was as follows:
The Practice experienced growth in 1999, that most likely, could not be sustained on an annual basis for very long, especially as a single practitioner. As such, any projection using the above trend would be misleading.

Since that was not enough data to develop statistical trends, we turned to the industry. Specifically, we turned to the Medical Group Physician Compensation and Financial Survey published by the American Medical Group Association. We analyzed the change in median physician gross charges for the years 1997 through 2005 for Plastic and Reconstruction Surgeons in the Southern Region of the United States. This data is shown in Table 9.

<table>
<thead>
<tr>
<th>Year</th>
<th>Median</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$931,529</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>1,001,703</td>
<td>7.5%</td>
</tr>
<tr>
<td>1999</td>
<td>995,063</td>
<td>-0.7%</td>
</tr>
<tr>
<td>2000</td>
<td>1,020,442</td>
<td>2.6%</td>
</tr>
<tr>
<td>2001</td>
<td>1,078,431</td>
<td>5.7%</td>
</tr>
<tr>
<td>2002</td>
<td>1,052,844</td>
<td>-2.4%</td>
</tr>
<tr>
<td>2003</td>
<td>1,191,894</td>
<td>13.2%</td>
</tr>
<tr>
<td>2004</td>
<td>1,406,861</td>
<td>18.0%</td>
</tr>
<tr>
<td>2005</td>
<td>1,381,446</td>
<td>-1.8%</td>
</tr>
<tr>
<td>Average</td>
<td></td>
<td>5.3%</td>
</tr>
</tbody>
</table>
Using actual 1999 revenues as our starting point, we applied the industry growth rates to arrive at the revenue projections reflected in Table 10.

**TABLE 10**

**REVENUES - “AS IF NO DAMAGE”**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As if No Damage”</th>
<th>Actual Growth Rates</th>
<th>Industry Growth Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$ 588,891</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>598,747</td>
<td>1.7%</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>714,041</td>
<td>19.3%</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>f 732,253</td>
<td>2.6%</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>f 773,865</td>
<td>5.7%</td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>f 755,504</td>
<td>-2.4%</td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>f 855,284</td>
<td>13.2%</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>f 1,009,541</td>
<td>18.0%</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>f 991,303</td>
<td>-1.8%</td>
<td></td>
</tr>
</tbody>
</table>

a = Actual.  
f = Revenue forecast using industry growth rates.

Recognizing that The Practice did not follow industry trends in 1998 and 1999, we still feel that the industry growth rates provide a logical basis for the use in future projections. Part of the reason for the dramatic change in The Practice’s revenues was that it changed from being a more traditional reconstructive practice to a cosmetic practice. While this transition was ongoing for a number of years, Dr. Smith explained to us that the large increase in 1999 was mainly attributable to the shifting of The Practice’s services. It has continued in that fashion since then. The industry growth rates provide a more conservative basis, and as such, have been used in these calculations.

Next, we projected revenues for four additional years using the average industry growth rate of 5.3 percent as calculated in Table 9. This results in revenue projections as reflected in Table 11.
### TABLE 11
REVENUES - “AS IF NO DAMAGE”

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As if No Damage”</th>
<th>Actual Growth Rates</th>
<th>Industry Growth Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>a $588,891</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>a 598,747</td>
<td>1.7%</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>a 714,041</td>
<td>19.3%</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>f₁ 732,253</td>
<td>2.6%</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>f₁ 773,865</td>
<td>5.7%</td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>f₁ 755,504</td>
<td>-2.4%</td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>f₁ 855,284</td>
<td>13.2%</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>f₁ 1,009,541</td>
<td>18.0%</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>f₁ 991,303</td>
<td>-1.8%</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>f₂ 1,043,554</td>
<td>5.3%</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>f₂ 1,098,559</td>
<td>5.3%</td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>f₂ 1,156,463</td>
<td>5.3%</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>f₂ 1,217,419</td>
<td>5.3%</td>
<td></td>
</tr>
</tbody>
</table>

a = Actual.

f₁ = Revenue forecast using industry growth rates.

f₂ = Revenue forecast using average of industry growth rates from 1997 through 2005.

---

**EARNINGS PROJECTIONS “AS IF NO DAMAGE”**

To project earnings, we again looked at the relationship of earnings as a percent of revenue. This relationship is reflected in Table 12.
### TABLE 12
**EARNINGS - “AS IF NO DAMAGE”**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As if No Damage”</th>
<th>Earnings Before Compensation “As if No Damage”</th>
<th>Earnings % of Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$ 588,891</td>
<td>$ 282,370</td>
<td>47.9%</td>
</tr>
<tr>
<td>1998</td>
<td>598,747</td>
<td>256,379</td>
<td>42.8%</td>
</tr>
<tr>
<td>1999</td>
<td>714,041</td>
<td>280,378</td>
<td>39.3%</td>
</tr>
</tbody>
</table>

Average 43.3%

This shows that historically, practice earnings before Dr. Smith’s compensation was 43.3 percent of revenue. To check the reasonableness of this figure, we turned to the *Physician Compensation and Production Survey* published by The Medical Group Management Association. The published physician compensation to collections ratio for 2005 is 51.0 percent. This demonstrates that The Practice is less profitable than the published data. Therefore, we will use the actual profitability of The Practice in the calculation of damages. This results in the projected earnings as reflected in Table 13.
TABLE 13
EARNINGS - “AS IF NO DAMAGE”

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As if No Damage”</th>
<th>Earnings Before Compensation “As if No Damage”</th>
<th>Earnings % of Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>$588,891</td>
<td>$282,370</td>
<td>47.9%</td>
</tr>
<tr>
<td>1998</td>
<td>598,747</td>
<td>256,379</td>
<td>42.8%</td>
</tr>
<tr>
<td>1999</td>
<td>714,041</td>
<td>280,378</td>
<td>39.3%</td>
</tr>
</tbody>
</table>

Average: 43.3%

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue “As if No Damage”</th>
<th>Earnings Before Compensation “As if No Damage”</th>
<th>Earnings % of Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$732,253</td>
<td>$317,395</td>
<td>43.3%</td>
</tr>
<tr>
<td>2001</td>
<td>773,865</td>
<td>335,432</td>
<td>43.3%</td>
</tr>
<tr>
<td>2002</td>
<td>755,504</td>
<td>327,473</td>
<td>43.3%</td>
</tr>
<tr>
<td>2003</td>
<td>855,284</td>
<td>370,723</td>
<td>43.3%</td>
</tr>
<tr>
<td>2004</td>
<td>1,009,541</td>
<td>437,586</td>
<td>43.3%</td>
</tr>
<tr>
<td>2005</td>
<td>991,303</td>
<td>429,681</td>
<td>43.3%</td>
</tr>
<tr>
<td>2006</td>
<td>1,043,554</td>
<td>452,329</td>
<td>43.3%</td>
</tr>
<tr>
<td>2007</td>
<td>1,098,559</td>
<td>476,171</td>
<td>43.3%</td>
</tr>
<tr>
<td>2008</td>
<td>1,156,463</td>
<td>501,269</td>
<td>43.3%</td>
</tr>
<tr>
<td>2009</td>
<td>1,217,419</td>
<td>527,691</td>
<td>43.3%</td>
</tr>
</tbody>
</table>

a = Actual.

f = Forecast using the average of 1997-1999 earnings as % or revenue.

The next step in calculating the lost earnings is to subtract the earnings “as damaged” from the earnings “as if no damage.” This calculation is shown in Table 14.
### TABLE 14

**LOST EARNINGS**

<table>
<thead>
<tr>
<th>Year</th>
<th>Earnings Before Compensation “As if No Damage”</th>
<th>Earnings Before Compensation “As Damaged”</th>
<th>Lost Earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$315,987</td>
<td>$209,650</td>
<td>$107,745</td>
</tr>
<tr>
<td>2001</td>
<td>333,943</td>
<td>59,361</td>
<td>276,071</td>
</tr>
<tr>
<td>2002</td>
<td>326,020</td>
<td>148,483</td>
<td>178,990</td>
</tr>
<tr>
<td>2003</td>
<td>369,078</td>
<td>109,330</td>
<td>261,393</td>
</tr>
<tr>
<td>2004</td>
<td>435,644</td>
<td>58,443</td>
<td>379,143</td>
</tr>
<tr>
<td>2005</td>
<td>427,774</td>
<td>164,666</td>
<td>265,015</td>
</tr>
<tr>
<td>2006</td>
<td>450,322</td>
<td>206,156</td>
<td>246,173</td>
</tr>
<tr>
<td>2007</td>
<td>474,058</td>
<td>161,582</td>
<td>314,589</td>
</tr>
<tr>
<td>2008</td>
<td>499,045</td>
<td>167,830</td>
<td>333,439</td>
</tr>
<tr>
<td>2009</td>
<td>525,349</td>
<td>174,079</td>
<td>353,612</td>
</tr>
</tbody>
</table>

The final step in determining the total damages is to adjust the figures from Table 14 to the present value. This increases past losses for interest and decreases future losses for the time value of money. This calculation is reflected in Table 15.
### TABLE 15
PRESENT VALUE OF LOST EARNINGS

<table>
<thead>
<tr>
<th>Year</th>
<th>Lost Earnings</th>
<th>Prejudgement Interest Rate (^1)</th>
<th>Present Value Lost Earnings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$107,745</td>
<td>10.0%</td>
<td>$188,616</td>
</tr>
<tr>
<td>2001</td>
<td>276,071</td>
<td>11.0%</td>
<td>459,166</td>
</tr>
<tr>
<td>2002</td>
<td>178,990</td>
<td>9.0%</td>
<td>249,952</td>
</tr>
<tr>
<td>2003</td>
<td>261,393</td>
<td>6.0%</td>
<td>309,064</td>
</tr>
<tr>
<td>2004</td>
<td>379,143</td>
<td>7.0%</td>
<td>430,425</td>
</tr>
<tr>
<td>2005</td>
<td>265,015</td>
<td>7.0%</td>
<td>281,178</td>
</tr>
<tr>
<td>2006</td>
<td>246,173</td>
<td>9.0%</td>
<td>254,258</td>
</tr>
<tr>
<td>2007</td>
<td>314,589</td>
<td>11.0%</td>
<td>310,512</td>
</tr>
<tr>
<td>2008</td>
<td>333,439</td>
<td>8.75%*</td>
<td>316,408</td>
</tr>
<tr>
<td>2009</td>
<td>353,612</td>
<td>8.75%*</td>
<td>308,553</td>
</tr>
</tbody>
</table>

$3,108,130

\(^1\) Source: Florida Department of Financial Services [http://www.fldfs.com/aadir/interest.htm].

* Average of previous years.
CONCLUSION

As a result of our analysis, it is our opinion that Dr. Smith and The Practice has suffered economic damages in this matter of at least $3,108,130.
Experience

President of Trugman Valuation Associates, Inc., a firm specializing in business valuation and litigation support services. Business valuation experience includes a wide variety of assignments including closely-held businesses, professional practices and thinly traded public companies. Industries include but are not limited to security, automotive, funeral homes, health care, securities brokerage and financial institutions, retail, manufacturing, service, and professional business establishments. Assignments have also included the valuation of stock options and various types of intangible assets.

Business valuation and litigation support services have been rendered for a variety of purposes including, but not limited to family law matters, business damages, lender liability litigation, buy-sell agreements, shareholder litigation, estate and gift tax matters, buying and selling businesses, malpractice litigation, wrongful death, sexual discrimination, age discrimination, wrongful termination, and breach of contract. Representation in litigation includes plaintiff, defendant, mutual, and court-appointed neutral.

Court Testimony. Has been qualified as an expert witness in State Courts of New Jersey, New York, Pennsylvania, Connecticut, Florida, Michigan and Federal District Court in Newark, New Jersey and Hammond, Indiana, and has performed extensive services relating to court testimony. Testimony has also been provided in arbitration cases before the National Association of Securities Dealers and the American Stock Exchange, as well as other forms of arbitration.


Court Appointments. Has been court appointed in New Jersey’s Morris, Sussex, Essex, Union, Hunterdon, Somerset, Monmouth, Middlesex, Passaic, Warren, Bergen, and Hudson counties by numerous judges, as well as Orange County, Florida.

Mutual Expert. Regularly serves as a mutually-agreed upon expert.

Early Settlement Panel. Has served on the Blue Ribbon Early Settlement Panel in Sussex County.
PROFESSIONAL QUALIFICATIONS

Professional Designations


Education


Faculty

• National Judicial College, Reno, Nevada since 1997.

Appraisal Education


• AICPA National Business Valuation Conference. Austin, TX, American Institute of Certified Public Accountants, 2006.

• FCG Conference. Austin, TX, Financial Consulting Group, 2006.

• Personal Goodwill. BV Resources Telephone Conference, 2006.


• Valuation². Las Vegas, NV, American Institute of Certified Public Accountants and American Society of Appraisers, 2005.

PROFESSIONAL QUALIFICATIONS

Appraisal Education

Appendix 1

PROFESSIONAL QUALIFICATIONS

Appraisal Education


Appraisal Education

- Has performed extensive reading and research on business valuation and related topics.

Lecturer

Lecturer

Appendix 1

PROFESSIONAL QUALIFICATIONS

Lecturer

- Pressing Problems and Savvy Solutions When Retained by the Non-Propertied Spouse. Las Vegas, NV, American Institute of Certified Public Accountants/American Academy of Matrimonial Lawyers, 2002.
Appendix 1

PROFESSIONAL QUALIFICATIONS

Lecturer

- **Valuation Premiums and Discounts.** Louisville, KY, Kentucky Tax Institute, 2001.
- **Business Valuation for Marital Dissolutions.** Dublin, OH, Ohio Supreme Court, 2001.
- **Valuation Land Mines To Watch Out For.** Miami, FL, American Institute of Certified Public Accountants, 2000.
- **Ask the Experts - Discounts and Premia.** Miami, FL, American Institute of Certified Public Accountants, 2000.
- **Equitable Distribution of Closely-Held Businesses – Fair Market Value or Fair Value?** Atlantic City, NJ, Association of Trial Lawyers of America -- New Jersey, 1999.
PROFESSIONAL QUALIFICATIONS

Lecturer


Lecturer

PROFESSIONAL QUALIFICATIONS

Lecturer


Instructor

• Principles of Valuation - Part 2. American Society of Appraisers, Austin, TX, 2005; Chicago, IL, 2006; Brooklyn, NY 2006; Herndon, VA 2007; Chicago, IL 2007.

• Small Business Valuation: A Real Life Case Study. American Institute of Certified Public Accountants, Rocky Hill, CT, 2005; Richmond, VA, 2005; Columbia, MD, 2005.


• Valuing a Small Business: Case Study. Rhode Island Society of CPAs, Providence, RI, 2004.


Instructor

- Splitting Up is Hard to Do: Advanced Valuation Issues in Divorce and Other Litigation Disputes. American Institute of Certified Public Accountants, Providence, RI, 2002.
Instructor


PROFESSIONAL QUALIFICATIONS

Instructor

Organizations
• The Institute of Business Appraisers, Inc.
• American Society of Appraisers.
• American Institute of Certified Public Accountants.
• New Jersey Society of Certified Public Accountants.
• New York State Society of Certified Public Accountants.
• Florida Institute of Certified Public Accountants.
• Collaborative Family Lawyers of South Florida

Awards
• Presented with the “Hall of Fame Award” by the American Institute of Certified Public Accountants in December 1999 for dedication towards the advancement of the business valuation profession.
• Presented with the “Fellow Award” by The Institute of Business Appraisers Inc., in January 1996 for contributions made to the profession.

Professional Appointments
• The Institute of Business Appraisers, Inc. Former Regional Governor for the Mid-Atlantic Region consisting of Delaware, Kentucky, Maryland, New Jersey, Pennsylvania, Ohio, Virginia, and West Virginia.
• The American Society of Appraisers Chapter 73. Treasurer, 1996 - 1997.

Current Committee Service
• Chairman of Valuation, Forensic Accounting and Litigation Services Section - Florida Institute of CPAs.
Current Committee Service

- Chairman of Disciplinary and Ethics Committee - The Institute of Business Appraisers, Inc. (committee established 1989).
- AICPA ABV Examination Committee.

Past Committee Service

- AICPA Committee with the Judiciary.
- AICPA ABV Credential Committee.
- AICPA Management Consulting Services Division - Executive Committee.
- Chairman of the Valuation Standards Subcommittee - NJ Society of Certified Public Accountants Litigation Services Committee.
- Matrimonial Subcommittee - NJ Society of Certified Public Accountants Litigation Services Committee.
- Co-Chair of Courses and Seminars for Certified Public Accountants Subcommittee - NJ Society of Certified Public Accountants.
- Education Committee - The Institute of Business Appraisers, Inc.
- Chairman of Education Committee - North Jersey Chapter of American Society of Appraisers.
- AICPA Subcommittee on Business Valuation & Appraisal.
- International Board of Examiners - American Society of Appraisers.
- Qualifications Review Committee - The Institute of Business Appraisers, Inc.

Editor

- Editorial Advisor for CPA Expert, American Institute of Certified Public Accountants.
- Editorial Advisor for The Journal of Accountancy, American Institute of Certified Public Accountants.
- Former Editorial Advisor of BV Q&A, Business Valuation Resources.
Editor

- Former Editorial Board of CPA Litigation Service Counselor, Harcourt Brace, San Diego, CA.
- Former Editorial Board of Business Valuation Review, American Society of Appraisers, Herndon, VA.

Author

- Course entitled Valuation Issues in Divorce Settings for the American Institute of Certified Public Accountants (1997).
- Co-author of course entitled Accredited Business Valuer Review Course (Market Approach Chapter) for the American Institute of Certified Public Accountants (1997).
- Understanding Business Valuations for The Institute of Continuing Legal Education (1997).
PROFESSIONAL QUALIFICATIONS

Author

- Course entitled Understanding Business Valuation for the Practice of Law for the Institute of Continuing Legal Education in NJ.