

# FairShare Financial® FAMILY LAW ALERT

## Expert Found Trying to Lower Value of Military Contractor in Divorce

***Jones v. Jones*, 2008 WL 4779604 (N.C. App.) (Nov. 4, 2008)**

During the parties' marriage, numerous military contracts generated substantial income for the husband's company, which sold playground equipment. After they separated, the husband changed suppliers and said that he would stop receiving military contracts.

At their divorce trial, both parties retained experts to value the husband's company, and both used a revenue multiplier in the capitalized earnings approach, as required by state law. Gross sales during the two years prior to the divorce amounted to \$518,906 and \$576,350, respectively. However, only the husband's expert deducted the total value of all military contracts and readjusted the sales figure downward each year to \$300,495 and \$294,257, respectively. He also disregarded sales for the years following separation. Using a revenue multiplier of 31.3%, he arrived at a value of \$90,895 for the business.

For reasons the appellate court opinion does not explain, the husband's expert chose not to use the 42% revenue multiplier that he indicated was typical for contract installers, the category to which the husband's business belonged. On the wife's request at trial, the expert recalculated the value using the company's actual sales for the same years and applying the 42% multiplier. Under this alternative, he reached a value of \$234,025 for the business.

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The trial court adopted the alternate, higher valuation, and the husband appealed. Although he did not challenge the higher multiplier, the husband argued that the trial court should have accepted his expert's revenue adjustments, due to the elimination of the company's military contracts. On review, the court of appeals found evidence that two years after the couple separated, the company enjoyed annual gross sales of over \$521,074. The trial court correctly considered this evidence along with the company's receipt of a military contract during the same time. Moreover, the trial court specifically found that in discounting actual sales, the husband's expert "was attempting to lower the value of the company."

Based on all the evidence—including the company's cash flow, its loans to the husband, and its ability to acquire new equipment and contracts—the trial court was within its discretion to adopt the higher, alternative value for the business, and the court of appeals confirmed its decision in all respects.