

## **K. SCOTT VAN METER, JD, CPA, CIRA**

*MANAGING PARTNER*  
*Houston, Texas*



### **PROFESSIONAL HISTORY**

**Van Meter & Associates, L.L.P. – 2003 to present**

**KeyPoint Consulting LLC - 2000 to 2003**  
Principal

**Peterson Consulting (Navigant Consulting, Inc.) - 1998 to 2000**  
Principal

**Labor Force, Inc. - 1996 to 1998**  
President (1997 to 1998)  
Executive Vice-President and General Counsel (1996 to 1997)

**Bracewell & Patterson, L.P. - 1994 to 1996**  
Attorney, Bankruptcy Section

**Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. –  
1988 to 1994**  
Attorney, Bankruptcy Section

**Arthur Andersen & Co. - 1985 to 1987**

### **PROFESSIONAL EXPERIENCE**

Mr. Van Meter has 20 years of diverse professional experience in accounting, law, management and consulting. He has directly advised debtors, creditors, creditor committees, other special committees and trustees in bankruptcy matters, and conducted studies of economic liability and damages in complex litigation matters.

Currently, Mr. Van Meter is the manager of the ERLY and WEI Creditors', LP, a litigation trust formed pursuant to the ERLY Industries, Inc. Plan of Reorganization. Mr. Van Meter's clients have included industries in the insurance, health care, pharmaceutical, steel, lodging, jewelry, telecommunications, construction, real estate development, and transportation practices.

Mr. Van Meter has also extensively implemented his own direct experience to consult and assist other attorneys in preparation of their cases, including significant experience in analyzing of the case, possible issues and defenses, and documents as well as preparation of reports and testifying as a damage expert in depositions and trials.

Mr. Van Meter has also assisted clients, including attorneys, to resolve complex issues, including financial and operational restructuring, investigation of accounting and management irregularities, and managing complex litigation involving millions of pages of documents.

**VAN METER & ASSOCIATES, L.L.P.**  
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## **SELECTED CASE EXAMPLES**

- Accounting malpractice litigation – Mr. Van Meter was retained as the accounting and audit expert in this matter involving a bankrupt distributor of business forms and transportation company. Mr. Van Meter analyzed the audit and non-audit work conducted by a “Big 4” accounting firm. Mr. Van Meter prepared multiple reports and testified at deposition and in a jury trial in Federal District Court.
- Arbitration of disputes related to \$270 million acquisition of a telecommunications company – Mr. Van Meter was retained by the largest privately held telecommunications company in the United States to assist in the resolution of disputes related to their acquisition of another telecommunications company. Mr. Van Meter directed the company’s activities related to the arbitration of a \$27 million dispute over the net working capital of the acquired company at closing. In addition, Mr. Van Meter testified at deposition and in a separate arbitration proceeding regarding the amount of net working capital and other accounting related matters.
- Physician practice management companies - Mr. Van Meter developed damage models for lost profits on behalf of multiple medical practices related to the failure of the physician practice management companies. Mr. Van Meter also evaluated the companies’ failures and/or inability to provide contracted services with subsequent isolation of the effects of the breaches of contract on the profits of the medical practices.
- Antitrust class action litigation – Mr. Van Meter directed the analysis of price fixing allegations against a multinational corporation. Mr. Van Meter prepared a financial assessment of defendant’s historical financial performance and directed the creation of databases containing over 14 years of detailed sales transactions. In addition, Mr. Van Meter created financial models to evaluate settlement proposals and analyzed effects of class opt-outs on ultimate settlement agreement that exceeded \$1 Billion.
- Price fixing litigation in U.S. supplement market – Mr. Van Meter led a team studying the effects of an admitted cartel on the prices of products over several decades in this nationwide multi-district litigation. Mr. Van Meter’s investigation and analyses over a four year period supported the work of the testifying expert retained in the case to opine on alleged damages. Mr. Van Meter also assisted counsel in analyzing and responding to the reports of opposing experts, in planning and taking depositions of opposing experts, and evaluating settlement options with individual plaintiffs.
- Accounting malpractice and fraud litigation related to failed consolidation company – Mr. Van Meter was retained as a consultant to assist counsel develop claims against the accountants, officers and directors and assess damages suffered by the plaintiffs as a result of the bankruptcy of the company. Mr. Van Meter conducted a forensic analysis related to the work of outside auditors and the actions of the

officers and directors of the company in light of subsequently discovered accounting irregularities. In addition, Mr. Van Meter prepared an estimate of damages to plaintiffs and assisted counsel in settlement negotiations with the defendants.

- Alleged discrimination in the wireless communications industry – Mr. Van Meter directed an analysis, on behalf of a large, facilities-based wireless communications company, of the claims by a small cellular reseller that it was damaged by alleged discriminatory pricing by the defendant. The analysis included the review and critique of the opposing experts’ damage models, identifying critical flaws in their model, and providing a comprehensive alternative model resulting in significantly reduced damage estimates.
- Creditors’ committee of ERLY Industries, Inc. – Mr. Van Meter was the financial advisor to the Committee in evaluating the issues of the case, including monitoring the monthly operating reports filed by the Debtor, an analysis of the Debtor in Possession’s financing proposals, evaluation of business plans submitted by the Debtor, valuation of a closely held subsidiary and the negotiation of the sale of that subsidiary, development of the plan of reorganization, and analyses and valuations in support of confirmation.
- Manager of the ERLY and WEI Creditors’, LP litigation trust - The trust was formed as an integral part of the Plan of Reorganization. Mr. Van Meter is responsible for administration of the Plan, including the analysis, investigation and litigation of multiple claims for recovery of accounting and legal malpractice, director and officer liability, and preferences and fraudulent conveyances as well as claim resolution and distributions.
- Price fixing litigation in U.S. animal feed supplement market – Mr. Van Meter directed the investigation into an alleged cartel and the potential affects on prices over a decade in a segment of the animal feed supplement market. Over a three year period, Mr. Van Meter analyzed alleged antitrust liability and damages, provided supporting analysis for responding to the reports of opposing experts, and assisted the testifying experts in the preparation of reports and for deposition.
- Alleged anticompetitive conduct in the steel industry – Mr. Van Meter directed detailed analysis of the steel plate industry in response to a claim that the defendant had engaged in anticompetitive conduct. Mr. Van Meter supported the testifying expert in the preparation of a report analyzing and refuting the opinions of one opposing expert on the existence of anticompetitive conduct and in responding to the opinions of another opposing expert related to alleged damages. The case ultimately settled with the plaintiff taking nothing.

- Forensic examination of alleged fraud by medical provider – Mr. Van Meter was retained by the Examiner appointed in the bankruptcy case of a medical services provider to investigate allegedly fraudulent conduct by the Debtor related to the factoring of the Debtor’s receivables. Mr. Van Meter analyzed the Debtor’s factoring transactions over several years and advised the Examiner with regard to his findings. Assisted the Examiner in preparing her report to the Bankruptcy Court.
- Financial advisor to Creditors’ Committee of a bankrupt telecommunications company – Mr. Van Meter analyzed and monitored the Debtors’ financial condition throughout the case and advised the Committee with regard to the Debtors’ likelihood of continued existence. Mr. Van Meter evaluated the Debtors’ proposed DIP financing and proposed plans of reorganization. In addition, Mr. Van Meter conducted a valuation of the Debtors’ assets in response to a proposed sale of substantially all the assets of the Debtors’ estates and assisted counsel in evaluating the possibility of a fraudulent conveyance related to the Debtors’ initial acquisition of the assets.
- Canadian price fixing litigation – Mr. Van Meter provided detailed financial analysis and investigation to assist Canadian counsel respond to allegations of cartel behavior in the animal feed supplement market. Mr. Van Meter directed the creation of detailed sales transaction databases and provided extensive analyses used by counsel to evaluate and ultimately settle the claims by plaintiffs.
- Life insurance company on behalf of the state insurance commissioner – Mr. Van Meter conducted an investigation into the marketing practices and analyzed the company’s stated marketing practices and policies as compared to deposition testimony of key executives in a class action litigation over alleged marketing misconduct. The investigation identified numerous violations of state regulations resulting in the imposition of record fines against the company.
- Creditors’ committee of a telecommunications tower manufacturer – Mr. Van Meter assisted the committee to negotiate a consensual plan of reorganization by evaluating the Debtor’s proposed plan of reorganization and pre-bankruptcy leveraged buyout transaction in excess of \$100 million as a potential fraudulent conveyance.
- Insolvent life and health insurance company – Mr. Van Meter directed the investigation of the extent of unprocessed claims in order to evaluate the loss exposure of state guaranty associations. Mr. Van Meter also designed and implemented a system to expedite the claims resolution process, effectively eliminating a one-year backlog of claims in six weeks.

## DEPOSITION AND TRIAL TESTIMONY

- December 1998 – *In re ERLY Industries, Inc., et al.* Contested Matter. Trial testimony regarding proposed debtor in possession financing agreement.
- December 1998 – *In re ERLY Industries, Inc., et al.* Contested Matter. Trial testimony regarding proposed debtor in possession financing agreement.
- February 1999 – *In re ERLY Industries, Inc., et al.* Contested Matter. Trial testimony regarding the valuation of the Debtor’s wholly owned subsidiary.
- July 1999 – *In re ERLY Industries, Inc., et al.* Confirmation Hearing. Trial testimony regarding the valuation of LP Units distributed under the plan of reorganization, feasibility, and other confirmation issues.
- July 2000 – *In re Physicians Resource Group, Inc., et al.* Contested Matter. Trial testimony regarding claims resolution methodologies.
- September 2001 – *In re Physicians Resource Group, Inc., et al.* Adversary Proceeding. Expert report and deposition testimony regarding lost profits and breach of contract damages.
- October 2003 – *In re Florida Tube, Inc.* Contested Confirmation Hearing. Trial testimony regarding market rates of interest on restructured indebtedness and feasibility.
- June 2004 – *In the Matter of the Arbitration Between Teleglobe Telecom Corporation and Teleglobe, Inc., Claimants, and VarTec Telecom, Inc. and VarTec Telecom Holding Company, Inc. Respondents.* Deposition and trial testimony regarding net working capital and other accounting matters.
- July 2004 – *In re Precept Business Services, Inc., et al.; Steven S. Turoff as the Chapter 7 Trustee of Precept Business Services, Inc., et al. v. Jackson Walker, L.L.P., et al.* Expert reports, deposition and trial testimony regarding accounting malpractice by “Big 4” accounting firm.

## **EDUCATION AND CREDENTIALS**

Certified Insolvency and Restructuring Advisor (CIRA), Zolfo Cooper/Randy Waits Gold Medal Award – 2001

Certified Public Accountant (CPA) – Texas – 1987; Florida – 1990

Licensed Attorney - Florida –1990; Texas – 1995

J.D., *cum laude*, Stetson University College of Law – 1990

B.S. with Special Attainments in Commerce, Business Administration and Accounting, Washington & Lee University - 1985

## **PROFESSIONAL AND BUSINESS AFFILIATIONS**

American Association of Attorney – Certified Public Accountants

American Bar Association

American Bankruptcy Institute

American Institute of Certified Public Accountants

Association of Insolvency and Restructuring Advisors

Dallas Bar Association

Houston Bar Association

Texas Society of Certified Public Accountants

Member, Professional Standards Committee

Turnaround Management Association