

Valuation of a family-owned business adds complexity to a divorce

Written by Australian Business

September 06, 2013 /**24-7PressRelease**/ -- Divorce is difficult for any couple, but the complexity of the proceedings can escalate significantly where the spouses co-own or have worked together on a family business. Many factors affect how the business will be handled during and after the divorce, but one important area is how the business and its assets are appraised--that is, what is the ["valuation" of the business](#).

Often, fears over an individual's financial future after the divorce can add to the stress surrounding this process. The recent Texas case of Leedy v. Leedy provides an example of how a dispute over business valuation can lead to protracted proceedings and even a trip to the Court of Appeals of Texas.

In the case, the couple had been married for more than 10 years before filing for divorce. The parties agreed on numerous issues prior to trial, including the conservatorship of, and rights related to, their children. However, after the trial, the judge awarded a 50-percent division of the couple's business.

Co-owning the business was unlikely to be amicable

After the court's decision, the husband filed a motion to reconsider the ruling, alleging that an amicable relationship between the couple as partners in the business was unlikely. The wife then filed a motion for an appraisal of the business. Thereafter, the spouses entered into a handwritten agreement, signed and accepted by the court, in which the husband agreed to pay the wife \$125,000 for her half of the business, while awarding 100 percent of the interest in the business to the husband.

However, just one week later the wife filed a motion to withdraw her consent, with the wife stating that she had hired an expert who was prepared to testify that the valuation of the business was significantly higher than what was originally thought. This motion was denied, and the case then continued into the appeals court.

In the appeal, the husband argued that the wife had "accepted the benefits" under the final order when she accepted her husband's check for \$125,000, endorsed it and received the funds. Generally, a party that accepts benefits under a judgment is "estopped"--or, in other words, prevented--from then challenging a judgment on appeal. In her defense, the wife argued that the "accepted benefits doctrine" did not apply under the circumstances or that an exception

Valuation of a family-owned business adds complexity to a divorce

Written by Australian Business

to the doctrine applied, but the Court of Appeals found that such exceptions were inapplicable to the circumstances of this case, and the husband prevailed.

Acrimony and fearing for your livelihood

This case demonstrates the acrimony that may result when the [division of a small business](#) is disputed between a divorcing couple. Not only are emotions strained by the divorce itself, but the spouses may be extremely concerned about their future livelihoods.

Many circumstances can affect how business assets are categorized in a divorce agreement and how a business is valued, making it crucial to have a skilled attorney representing you. If you find yourself involved in a divorce in Texas that involves a co-owned or family business, you should seek attorneys with the experience to properly value your business and help you navigate the difficulties of the proceedings.

Article provided by O'Neil & Attorneys Visit us at www.themayfirm.com