Money and Meaning

By Stephen Goldbart and Joan DiFuria

Inheritance and Sibling Rivalry

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Sibling relationships, even among those who have benefited from a close, intact family, can unravel when confronting issues of a family business, fairness among siblings and future inheritance. Estate documents may instruct the executor or trustee to distribute the estate equally among the beneficiaries. It is important to consider and implement clear and detailed estate documents to minimize the risk of unintended consequences that may arise. Moreover, although these completed documents may express the testators' intent, often, there are additional circumstances that one may wish to consider in order to achieve family harmony and avoid unintended consequences.

Let's take a look at Julie's family, where numerous unexpected family issues arose subsequent to the death of the family patriarch.

Julie, a 45-year-old public relations consultant, asked for our help with the drama unfolding in her family. Her grandfather had started a family business, which her father had built into a successful international company. She and her three siblings, now in their 40s and early 50s, had all worked in the business before the majority of it was sold some 10 years earlier. The family held on to one part of the business, the core entity that was passed on from their grandfather. This business continued to provide a modest profit, shared equally by all of the siblings. After the sale of the larger business, Julie moved away from the city in which the rest of her family lived. Despite geographic distance, she remained close with her family, particularly her brother Fred and her mother. Julie and Fred had the "business minds" of the family and had a greater interest in the family business. They were also good friends.

Julie's family realized the importance of family, loyalty and trust. They were a family who enjoyed each other, spending the majority of holidays and vacations together. When their father died, they drew even closer together. Unfortunately, Julie's mother became ill and she was not expected to survive the year. Anticipating this serious event, family harmony began to wane.

It started with Fred's decision to buy the remaining family business entity from his mother and sisters. He had been overseeing the operation of that business and he wanted to invest in the business for the longer term. Julie thought it was a good idea, but wanted to be a small percentage partner, leaving the controlling interest to her brother. Fred resisted Julie's efforts to become a partner, choosing instead an old friend from college as a business consultant. Fred engaged a business appraiser to determine the value of the business. Julie challenged Fred's assumptions about the business value. In response to Julie's challenge, Fred retained an attorney. Julie also retained an attorney to protect her interest in the business. The mother of the family and the other siblings were caught between the disagreeing factions. Mom wanted her son to take over the company, primarily because he was the only child who had a serious interest in it. As her youngest child and only son, Fred was favored, but Mother saw him as second in his business skill to Julie. Julie seemed to have inherited her father's talent for business and was widely respected in the family and business world for her acumen.

Julie was disappointed with her brother's rejection of her partnership offer, but understood that their business lives had taken different directions. Nevertheless she wanted a close review of the assessed value of the business, which slowed down the sales process. This challenge to his valuation method led her brother, formally her close friend and confidant, to treat her like a business adversary. Mother was uncomfortable with any conflict and would not take a position. In fact, she did not even speak about the serious problem confronting her family over the family business and other issues.

Another issue this family was concerned about was a misunderstanding about who would receive an heirloom vase that belonged to Mother and was in her possession. Julie indicated that Mother had promised it to her 20 years ago, but there was no writing confirming that and mother refused to verify that promise. Shortly after her father's death, Julie received a letter from her siblings stating they believed the vase could be valuable, and wanted to get it appraised. Mom was silent. Julie felt angry and betrayed. She did not want to confront her mother, who was undergoing chemotherapy. It was possible that her mother, by her silence, was just avoiding conflict. It was also possible that she changed her mind about giving Julie the vase. This lack of communication and the rush by this family to seize the family assets and put a monetary value on them betrayed a lack of sensitivity and understanding of the values this family so strongly professed to hold.

In the spirit of family harmony, Julie suggested a compromise on the sale of the business that met most of her brother's conditions, with one exception. She wanted to keep her share of the family's season tickets to the local NBA team. Her brother objected stating that she did not even live in the area anymore. Secretly, he had already promised them to his new partner in waiting and was being completely dishonest with his sister about his reasons for not wanting her to have them. Julie's sisters stated that the tickets were family assets that should not be appraised and sold as part of the business.

Too often, family members fail to communicate and consider estate planning for the future to be nothing more than a chance to divide the family wealth, seizing all that they can get. The desire to right an old psychological wrong or to prevail in a sibling rivalry can have devastating results. Fred wanted something he never had while his father was alive: to be the leader of the family business and the driver of its success. His father was a commanding, self-centered business leader, who did little to recognize or reward the achievements of his children or plan for the leadership transition of his business. He seemed particularly disinterested in recognizing his son's accomplishments. In light of this, Fred had something to prove to himself and his family, and wanted to do it on his own. Fred was jealous of his father's attention and respect of Julie. Unconsciously, he wanted to correct this psychological wrong by "winning" the business prize. In regard to the current business operations, Fred viewed Julie as out-of-touch with the business since she had not worked in the business for over five years.

By challenging Fred's business valuation, Julie believed she was not only protecting herself, but also her sisters and mother. She wanted to make sure that the business sale did not diminish the future inheritance of all family members. She didn't want to involve her mother, who was likely in the last year of her life. She was stunned by her brother's distrust of her. His attitude was inappropriate and hurtful. He treated her as if she was ignorant of the business that she knew well and in which she had achieved great success. Julie was surprised and devastated by the attitude her family took toward the vase and the NBA tickets.

As Julie related her story to us she did not remove her dark glasses: More than the money, she was in tears over the rapid decline of her family. This was the first year of her adult life that she did not plan to spend vacation time with her family. These are the kinds of situations that rapidly spiral downward without the help of professional facilitation. We suggested a family meeting, to give each family member an opportunity to voice his or her perspective, and carefully listen to each other. We requested that the meeting be an open communication with the goal of finding shared values and a path to family restoration. We offered three things: a constructive facilitated dialogue; an opportunity to take charge of a downward spiral and reach a mediated compromise; and an opportunity to revive the family connection and learn about new decision-making strategies. We began this engagement with individual interviews with each family member in advance of the family meeting. We asked each of them what they were willing to do differently that could help this situation. Due to the family's history of closeness and capacity to communicate, we entered into the family meeting process with a positive prognosis.

Conflicts over money and an adversarial legal process can drive a family apart. We begin our facilitation process with a set of ground rules for participants, discouraging blame and taking sides, encouraging open mindedness and goodwill. We ask family members to leave their weapons at the door, including their highly individualized "solutions." Each family member told their story, and we then facilitated a dialogue on shared principles and values about the family, inheritance, and the family business going forward. Interestingly, this family's highest stated value was "family first"—the importance of family unity over all other matters. Once we had established a set of shared operating principles, we moved toward a mediated settlement.

A simple rule of thumb in our work is that psychological communication and business communication must be kept separate. If Fred needs to be a leader in the family business, that should be respected and in the best of circumstances, supported, but it doesn't require the rejection of his sister. If Julie wants the vase, she must discuss it with her mother again and accept her mother's decision. If her mother refuses to state her decision, the vase will remain in the mother's name. She cannot blame her siblings for her mother's behavior. Julie's siblings also need to understand that the NBA tickets mean something to Julie that is more than a negotiating ploy, it is part of the family and business legacy that she feels is important to keep in the family and not lose to the business.

By the end of these discussions it became evident that everyone was fine with Fred buying the business, with Julie using her business skill to ensure an appropriate valuation, and with Mother giving individual gifts to family members. The process of constructive communication, understanding one another's perspective and finding new ways to make decisions moved the family toward a successful outcome. To ensure that this re-found unity was maintained, we helped the family create a governance structure for making these kinds of decisions going forward. "Governance" refers to the mindsets, structures and processes that bring a family together into a unified system. We recommended the creation of a family council, with transparent by-laws and practices. This is an organized council for dealing with family issues versus business issues. The creation of a family council empowers and protects each family member and the family as a group. It creates a democratic, rule of law approach to otherwise sometimes irrational family dynamics. The law of the (family) jungle is replaced by democratic rule, with roles and guidelines for constructive communication and decision-making. From now on, all family members would be involved in making a decision as a team regarding family issues instead of making unilateral decisions in their own self interest.

Ultimately, we helped Julie and her family reach a compromise. They were able to recognize and take charge of the emotional drama that was getting in the way of rational money decision-making. By identifying and separating the business issues from the psychological issues, this family found a better way to negotiate a fair and acceptable plan for business succession, distribution of their mother's possessions, plans for their mother's care, and a communication method that will always be open for them to address family concerns without conflict.