



P E N N S Y L V A N I A

JURY VERDICT

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\$2,140,933 RECOVERY – CONTRACT – OPPRESSION OF MINORITY SHAREHOLDER – PLAINTIFF IS FROZEN OUT OF WEALTH MANAGEMENT FIRM HE FOUNDED – FAILURE TO PAY DIVIDENDS – DEVALUATION OF STOCK.

Philadelphia County, PA

The plaintiff alleged that he was a minority shareholder who was oppressed by the defendant, a wealth management corporation, rendering the stock the plaintiff owned in the closely-held corporation essentially worthless. The defendant denied the allegations made by the plaintiff and claimed that his dividends were offset against a debt owned by the plaintiff. The defendant also alleged that the plaintiff stole client names in violation of the Pennsylvania Trade Secret Statute.

The plaintiff co-founded a wealth management corporation in 1990, and was initially president of the firm and chairman of the corporation's board of directors. The plaintiff alleged that the defendant corporation, ruled by the majority shareholders, subsequently excluded him from management, prevented him from being a client advisor and denied him access to a large-asset client from which the corporation received many client referrals.

The plaintiff, age 67 at the time, testified that since 2005, he performed stock analysis at home in Rehoboth, Delaware, and presented these findings at weekly firm stock analyst meetings in Philadelphia, Pennsylvania. The plaintiff contended that the defendant used his stock picks for its clients' equity investment portfolios and obtained favorable results.

However, the plaintiff contended that the defendant corporation formed a management team that did not include the plaintiff. In August of 2007, the defendant demanded that the plaintiff work in Philadelphia daily. The plaintiff argued that this would require him to travel nearly 250 miles daily for work. The plaintiff contended that his original contract, which was scheduled to expire in April 2008, did not require him to work in Philadelphia. The plaintiff argued that his research analysis could be performed without him being physically present in the defendant's Philadelphia office. The defendant also required that the plaintiff present a new company stock every month when he was already following more than 50 companies in about 20 different industries, according to the plaintiff's claims.

After the plaintiff did not report to the defendant's Philadelphia office, the defendant terminated his position in employment. Evidence showed that, shortly thereafter, the defendant offered to purchase the plaintiff's shares in the closely-held corporation for \$1,000,000 - an amount the plaintiff contended was less than half the amount the defendant declared to be a "fair" redemption price in August of 2007.

When the plaintiff refused to sell his stock, he contended that the defendant stopped paying the dividends on his stock, which had previously been paid without interruption since the 1990s. Without dividends, the plaintiff's corporate stock attributed income for which he was assessed income tax liability. The plaintiff claimed that the stock, which had previously paid a valuable dividend, now was a tax liability. The plaintiff claimed that, even though he owned approximately a third of the stock, he was the only corporate shareholder who did not receive a dividend check during the time in question. The plaintiff maintained that he was not even notified by the defendant that it had paid dividends to the other shareholders in September of 2008.

The plaintiff purchased his own health insurance on the open market for himself and his family in the fall of 2007. However, the defendant continued to pay health insurance premiums for the plaintiff through April 2008 (when the plaintiff's contract was to expire). The defendant claimed that the plaintiff owed the amount of the premiums it paid and the amount was appropriately set-off from the plaintiff's dividends. The plaintiff contended that the defendant represented that it was not continuing his health insurance and he never received a notice of claim regarding the alleged debt. The defendant denied telling the plaintiff that his health insurance would be discontinued.

The defendant also alleged that the plaintiff committed a theft of trade secrets in the form of its customer names. The plaintiff countered that he knew all of the persons whose names the defendant claimed had been stolen.

The case went to binding arbitration with an award of \$2,140,933 to the plaintiff plus interest until the redemption was satisfied. The defendant's claims against the plaintiff were dismissed.

REFERENCE

Plaintiff's business valuation expert: P. Dermot O'Neill from Springfield, PA. Plaintiff's forensic accounting expert: Leon LaRosa, Jr. from Philadelphia, PA. Plaintiff's stock analysis and investment expert: G. Leonard Teitelbaum from Holmdel, NJ. Plaintiff's stock analysis performance expert: Michael Aronow from New York, NY.

Roffman vs. RMA, Inc. Case no. 09-02-003504 and 09-07-001617; Mitchell Bach, Esq. (arbitrator), 07-26-12.

Attorneys for plaintiff: Arthur L. Bugay of Galfand Berger LLP in Philadelphia, PA, and Antoinette Stone and Mary Kay Brown of Brown, Stone & Nimeroff LLP in Philadelphia, PA.

COMMENTARY

Plaintiff's counsel successfully established minority shareholder oppression in this lawsuit involving a closely-held wealth management corporation. The case was brought by the plaintiff under Pennsylvania's Minority Oppression Statute (15 Pa C.S.A. Section 1767(a)(2)). The defendant brought a lawsuit against the plaintiff asserting theft of client names in violation of the Pennsylvania Trade Secret Statute. The cases were consolidated for trial and then transferred to binding arbitration by agreement of the parties. The plaintiff's legal team methodically established that the defendant corporation's majority rule enabled the majority shareholders to abuse their voting power to the detriment of the plaintiff, a minority shareholder. The plaintiff presented expert testimony that the demands placed upon the plaintiff were unreasonable and contrary to industry custom or practices. In addition, evidence showed that the plaintiff was the only shareholder who did not receive a dividend check on his stock for the time period in question. The case was arbitrated during a one-month period. The plaintiff was ultimately awarded in excess of \$2.1 million in damages and the defendant's claims were dismissed.