

How To Tear Your Family Apart

By Heather R. Chubb, Esq.

This article provides general principals of law only. Individual problems or fact situations should be referred to an attorney for evaluation and advice.

Julie sat in her car gazing at the sign above the door. It read “Varrazano Brothers Pool Company.” Gazing at the sign brought feelings of both happiness and sadness as she thought about the family inside joke and the fact that for the last 25 years the company had been run by the girls, Julie and her mom.

The company was started many years ago by Julie’s dad and his brother. Soon after the brother decided to leave and join the army leaving everything to be run by dad. He never returned to the business thus creating the family joke - the Varrazano Brothers Pool Company was never run by brothers. However, dad proved to be a good businessman and the pool company was very successful.

Seventeen years ago dad had a stroke leaving him unable to run the company. With some guidance from dad, and because they were always involved in the business, Julie and her mom took over running the operations. Two years after his stroke, dad died. The pool company alone was worth \$1.5 million. Dad’s “estate plan” left everything to mom.

The business continued to grow under the management of mom and Julie. Julie remained an employee and manager, but never received any ownership in the business. With time mom gradually cut back on her activities within the business and Julie took over, still in the role of employee/manager.

Fifteen years after dad’s death mom died. Her estate plan, like dad’s, consisted of a simple will leaving everything to the kids in equal shares. This time the transition

of assets was more complicated. Under Julie’s management the business had grown in value to \$4 million, including the equipment, land and building. The remainder of mom’s estate was valued at \$1 million, of which the majority was the family residence.

Julie visited an attorney to assist her in settling mom’s estate. She was shocked to find out that mom and dad did minimal estate planning and now \$1.3 million in estate tax needed to be paid. Not only was there estate tax due, but the entire estate would have to go

over the estate battle prevented Julie from being able to even write the check, and she had the lawyer to fill it in for her.

After 18 months and nearly \$250,000 in costs the probate was completed and the estate finally settled. Brad and Julie barely speak to each other now and their once close families are now estranged. Mom and dad’s estate plan had the added effect of turning loving siblings into resentful strangers.

Facing \$1.3 million in estate taxes, Julie had only 2 choices—sell the family business she loved and nurtured or get a loan

through the expense and delay of probate to transfer ownership to Julie and her brother Brad. To make matters worse, Brad had never been interested or involved in the family business and did not want to be part owner of the business. He wanted his share of the estate in cash, while Julie loved the family business and wanted to continue running it and hopefully pass it on to her own children one day.

Near tears, Julie asked the lawyer if there were any options for paying the estate taxes, and learned that **she had only 2 choices**— sell the business and liquidate assets, or get a loan. After much deliberation, Julie, trying to do what she felt was right for both Brad and herself, decided on the loan. The emotional toll

Five years after mom’s death, the pool business was doing well, but the loan payments were making things difficult. Each time she made the payment Julie was reminded of the mess that her parents created. She finally had to sell the family business. A couple weeks after the business is sold, Julie drives by one more time, just in time to see the new name go up.

More thoughtful planning by mom and dad would have allowed Julie to keep the business, provided Brad with cash, eliminated the estate taxes, and kept the family together.

Want to learn more about how to make the best planning decisions for your family? Call me at 635.6800 to arrange an appointment for a consultation.