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When disputes go from dinner table to the conference room

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By **Martin C. Daks**

Family firms face unique challenges as they flourish, attorneys say

Partners in a family business may try to settle their differences over the dinner table, but when the dispute moves into the conference room, the result can be heartburn.

And family firms with greater longevity are most likely to see conflict, since more relatives — many perhaps not working in the business — will enter the fray, experts said.

"Family-run companies are ripe for conflicts," said attorney **Scott I. Unger**, of **Stark & Stark**, in Lawrenceville. "Control of a first generation business may rest in one person, or a couple of people who are very close. But as the company gets bigger, and cousins and other more distant relatives start to get involved, owners' interests can diverge, setting the stage for a big conflict."

Unger represented a disgruntled family member who owned a stake in a third-generation New Jersey trucking company, and believed he was being frozen out by relatives. He went to court and received $3 million in a settlement, Unger said.

Many closely held companies "experienced tension in relation to the performance of family members actively involved in the business," according to a 2007-08 national survey by **PricewaterhouseCoopers**. The survey went on to report 25 percent of the firms reported "tension in relation to decisions about who can and cannot work in the business, and what compensation level should be set for family members who are actively involved in the business."

Despite that, almost four of five companies had no procedures for dealing with disputes between family members.

"Nationally, it's estimated that more than 70 percent of businesses are family owned," said **James Barrood**, executive director of the Rothman Institute of Entrepreneurship at Madison's Fairleigh Dickinson University.

Family-business programs hosted by universities and other providers "can help an educational and reconciliation process," Barrood said. "When people have a better understanding of what's going on, they can open up lines of communication, and can plan and operate more effectively."

FDU and other educational institutions, like Rutgers University and the Center for Closely Held Business at William Paterson University, offer hands-on workshops, presentations by industry experts and peer mentoring. For deeper problems, “we maintain a short list of consultants and psychologists,” Barrood said.

The very characteristics that strengthen a family business — ties of blood and marriage — can also torpedo it, warned **Karen Hopper**, director of the Family Business Institute at Rutgers School of Business-Camden.

“Sometimes, a business will go along with poor decision-making, or simply won’t make any decisions, in order to spare people’s feelings,” she said. “Lots of times, the member-owners are not even consciously aware of the dynamics, so they may need an outsider to open their eyes. It’s almost like therapy.”

Hopper pointed to a New Jersey-based family-owned service business “where the arguments over the business spilled into the family’s relationships,” driving wedges between individuals until the owners engaged an outside consultant to help them work things through.

The current recession doesn’t help, she said.

“While all kinds of businesses are being affected by the weak economy, it can hit family businesses in a unique way,” she said. “Some chief executives are deciding to hang on longer” — perhaps because they feel there’s no one else experienced enough to ride out the tough times — “and that can spark succession issues.”

Controversies can also arise from a wide range of issues, from something as simple as a perceived snub to something more complicated, like the snafu that can arise when a shareholder dies and his or her surviving spouse inherits the corporate stake and gets a seat at the boardroom, whether or not that person is qualified. Bringing in accountants, lawyers and other professionals early on to structure succession, buy-sell and other agreements can reduce the likelihood of some kinds of flare-ups, experts said.

But it’s not unusual for businesses to either ignore or not even recognize these kinds of problems until the controversy threatens to engulf the company, said **Edward Ahart,** chairman and partner of the Florham Park law firm **Schenck, Price, Smith & King LLP**.

That’s what happened when the founder-CEO of a New Jersey multigenerational family business involved in music products got ready to retire, Ahart said.

“The CEO was very hands on, and had never really developed a formal succession-planning strategy,” Ahart said. “As he got older, that led to tensions” as family members jockeyed to succeed him.

“We got involved before the situation got out of hand, and assembled some advisers who helped the company iron things out,” Ahart said. “Eventually, they worked through it.”
In a successful family-owned business, stakeholders will understand they need to manage relationships in addition to the business itself, he added. That may best be done by outside advisers, but getting the right ones can be a time-consuming procedure, so it’s better to start early in the game, he added.

“We recommend hiring an independent CEO, chief financial officer or other manager,” Ahart said. “You want someone who’s formally trained to run your kind of business, since birth alone does not guarantee that a person will have the interest, ability or training to run the firm.”