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Pennsylvania Appellate Court Affirms Dissolution of Profitable Limited Liability Companies Based Finding of Deadlock

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In
, 100 A.3d 622 (Pa. Super. 2014), a Pennsylvania appellate court found that a trial court could order the dissolution of a profitable *Pennsylvania Limited Liability Company* ("LLC").

The facts of the case are simple and fairly straightforward. Plaintiff Michael Staiger ("Staiger") and Defendant Kevin Holohan ("Holohan") formed two Pennsylvania LLCs: 200 East Airy, LLC ("200 East Airy") and Green and Airy Laundromat, LLC ("Laundromat"). Stainger lent 200 East Airy $165,000, to be used as start-up capital. The members agreed in writing that Stainger would be repaid the start-up money within five years. Both men owned 50% of both 200 East Airy and Laundromat. Both 200 East Airy's and Laundromat's operating agreements contained identical language which set forth that the members (Holohan & Stainger) have the authority to make business decisions and the decisions of a majority are controlling. Shortly after forming Laundromat, the members executed an agreement which provided that another unnamed LLC of Holman's was to manage Laundromat for a fee for an initial term of five years, then continue for two additional five-year periods.

Unfortunately, as is common with a lot of closely held companies, the business relationship between Staiger and Holohan deteriorated to the point where in 2006, they agreed in a series of emails to dissolve their partnership. Despite agreeing that they no longer wanted to continue doing business together, the two partners were unable to negotiate a buy-out. Since then, Holohan continued to unilaterally operate both companies, to the extent that Staiger neither received any further money from the businesses nor information regarding their operations. Moreover, Holohan refused to repay Staiger for his initial investment as was agreed by them during happier times. Finally, Holoman cased the LLCs to pay for his personal legal fees without Staiger's consent.

Despite the fact that the two LLCs are profitable, the Court Ordered a dissolution pursuant to 15 Pa. C.S. §972. In support of that decision, the Court reasoned that there was "deadlock" amongst the members. In other words, the Court recognized that both men each owned half of the companies. Hence, neither Stainger nor Holohan could unilaterally make management decisions without running afoul of the operating agreements which required "majority rule." Moreover, the Court found that Staigner presented evidence that he was wrongfully excluded or "frozen out" from managing the

LLCs. Finally, the Court reasoned that Holohan's unilateral decisions to have the LLCs pay his personal legal expenses and fees violated the operating agreement (which required majority approval).

The Staiger decision is important because it provides Pennsylvania trial court with guidance as to when they should Order a judicial dissolution pursuant to 15 Pa. C.S. §972. Clearly, the decision provides that deadlock, breach of an operating agreement or the freeze out of a member may warrant dissolution. Moreover, the decision is important because the Court did not permit the oppressor to use the fact that the LLCs were profitable as a bar to dissolution. Typically, parties involved in a corporate divorce will work out their differences in the form of an agreement where one party buys the other out. Unfortunately, Stainger and Holoham were unable to resolve their dispute. Dissolution can be a draconian resolution.

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