Vol. 21 No. 5 October/November 2018

2 Bloor Street West, Suite 2603, Toronto, Ontario M4W 3E2
Telephone: (416) 961-5612 Fax: (416) 961-6158
E-mail: valuators@marmerpenner.com

Marmer Penner Inc. Newsletter

Written by Steve Z. Ranot, CPA, CA•IFA, CBV
Edited by Anna M. Barrett, BSc, CPA, CA, CBV, CFF

Greater Clarity in Valuing Books of Account

Regular readers of this newsletter know that the atypical treatment accorded an investment advisor's ("IA") book of accounts, or client list, has been a recurring topic. For those unfamiliar with the issue, there were a number of cases earlier this decade where Ontario courts accepted that the value of an insurance broker's book of accounts should be discounted for time value until the expected date of disposition. The rationale was that it was inequitable to deem that the assets could be sold on the valuation date if the title spouse was also expected to pay support from that income. The same treatment was accorded to IAs but not, say, dentists. We see no difference between a dentist's patient list and an IA's client list. That's why we have doggedly refused to let go of this bone.

Over the years, we have seen many cases settled at the midpoint of this "low" valuation approach and the more typical, or "high", approach where the asset is valued at its true V-day value and the related contingent disposition costs discounted for time value. There have been Ontario cases where the court adopted a hybrid approach based on these two goalposts. We wrote about the *Dunn* decision in January/February 2012.

With all of this as background, a Saskatchewan decision, *J.E.F. and J.G.B.*, was released a few months ago. The husband was an IA at

RBC Dominion Securities. The wife's valuator from B.C. valued the book at $1,850,000 with no discount for income tax or time value. The husband's Ontario CBV valued his book at $1,120,000 before applying discounts for income tax and time value. The court accepted the Ontario CBV's starting number, however, after discounting for income tax and 18 years of time value, the Ontario CBV arrived at a $290,000 conclusion. The court described the combined tax and time value discounts as "troubling" in that they reduced the asset's value by about 75%. The court rejected the time value argument made that an IA waiting to sell his book on retirement was similar to an employee waiting to receive his company pension plan. The court found that "the husband's situation is unlike that faced by the pensionable employee who is postponed in interest" because an IA can cash in on the value by selling his book at any time he chooses. The court used a hybrid approach once again, starting with the $1,120,000 value and deducting 5% for all contingencies and a further 39% for income tax on the remainder. This resulted in a $650,000 net value. How does this compare to the two goalposts we have been using? Well, it's in between the two but closer to the "high" traditional approach. This helps bridge the difference created by the inconsistent treatment accorded to an IA's goodwill and, frankly, anybody else's. The precise valuation calculation included in the decision also gives us the greater clarity that valuators and lawyers have been seeking.

This newsletter is not intended to substitute for proper professional planning. It is intended to highlight areas where professional assistance may be required. The professionals at Marmer Penner Inc. will be pleased to assist you with any matters that arise. Please feel free to visit our website at ***www.marmerpenner.com***.