



DOMESTIC Cases Updated



Decided...

No excuses, poor record keeping doesn't preclude valuation.

Ebner v. Ebner, 2008-Ohio-5335

In *Ebner v. Ebner*, the Ohio Court of Appeals, Fifth District, upheld a 2007 Court of Common Pleas judgment regarding the value of a marital heating and cooling business even though necessary financial information was not provided.

The trial court had determined the value of the business as \$75,000 causing the business owner (Mr. Ebner) to file an appeal claiming that this court had erred in its determination of value.

In this case, only the non-business owner (Mrs. Ebner) hired and presented an expert. The Common Pleas and Appeals Court considered the testimony of the lone expert as to the valuation of the business and found it to provide credible support. The expert had requested, but failed to receive from the business owner the necessary financial documents including tax returns (which had not been filed for six years) as of the final day of trial. The expert acknowledged that without the benefit of reliable financial data, the application of standard valuation methods was difficult. He therefore resorted to the use of First Research, a subscription-only web service.

The expert testified that First Research provides analyses of a wide variety of industries throughout the United States. Each industry's analysis includes sales information that can be used as a benchmark for comparison with peer

companies. The expert found that the value of a company in the industry could be estimated at 30% of its annual revenues.

In addition, the expert included in his consideration:

- 1) Goodwill associated with this company which had been in business since 1947;
- 2) The prior sale price of an interest in the business, and;
- 3) The market value of similar companies.

Lesson: Failure to supply adequate records does not preclude the court from establishing the value of a business.

Based on all these analyses, the expert assessed the value of the heating and cooling business at \$75,000.

The Court recognized the difficulty of valuing a company without relevant and reliable financial information but accepted the expert's valuation method based on his testimony and the fact that "no other expert testimony on valuation was presented".

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Rebekah Smith, CPA, CVA, CFFA
Director of Dispute Advisory & Forensic Services
614.947.5300