Demoulas v. Demoulas SuperMarkets, Inc.: A Case Study in Business Ventures Going Bad

Posted on July 11, 2012 by Tara Myslinski

The Demoulas dispute started with a trusted fam relationship that went bad. Partly what made it infamous was probably a result of the parties' wherewithal – they have been able to fund decades of litigation. As the years passed and millions in fees accrued, the animosity built.

In 1917, Arthur Demoulas opened a local grocery store in Lowell. He and his wife operated it for some 40 years and then handed it over to their sons, George and Telemachus ("Mike"). The brothers grew the business quickly and their families were very close. In 1964, Mike and George executed wills, stating that if either brother died, the surviving brother would take care of the other's family. Seven years later, George died unexpectedly. For years after George's death all seemed well, and presumably George's family trusted Mike to do right by them, but in 1987, the Massachusetts Department of Revenue noticed an irregularity in a tax filing of George's oldest son, which his uncle Mike submitted. As George's family dug deeper into Mike's dealings, it turned out that all was not as it seemed.

Prior to George's death, Mike and George were 50/50 partners in the supermarket chain. It turns out that i the years since George's death, Mike secretly had been transferring George's family's shares to himself anc his family, leaving George's family with only an 8% share while amassing 92% of the company for his famil In 1990, George's family sued Mike for fraud, alleging losses of nearly $800 million. They also brought a shareholder derivative claim arguing that Mike wrongfully diverted $1 billion of company assets into new companies, such as Market Basket, Inc. Discovery was contentious and carried on for roughly four years, but the first several trials finally began in January 1994.

The first trial, concerning the fraud claim, included a fist fight in the courtroom between the sons of George and Mike, Arthur S. and Arthur T. Demoulas. The second trial, concerning the derivative claim, included allegations of judicial bias and the parties being represented by 22 different lawyers. The third suit include allegations that Arthur S. had wiretapped the defendants and led to charges that a juror offered to "fix" the trial for a payment of $200,000. All three suits were decided in favor of the plaintiffs, resulting in the judge awarding George's family 51% of the company.

Of course, years of appeals ensued. In 2000, the Supreme Judicial Court rendered its final decision, affirming each underlying decision in favor of the plaintiffs and effectively ending the grueling Demoulas saga…. for the time being. In 2002, Arthur S. sought to place his shares in a trust seeking to compete witl the company, claiming that his sister in law sided with Arthur T. so as to give him effective control of the company, despite the judge's ruling.

In 2008, the effects of the Demoulas case were still rippling through the legal community. The Massachusetts Board of Bar Overseers disbarred two of the defendant's attorneys for their unscrupulous actions during the litigation, which included luring the trial judge's law clerk to Boston, New York and Nova Scotia with a sham job offer, in an attempt to demonstrate the judge's alleged bias. Instead of providing th attorneys with evidence, the clerk went to the FBI and agreed to wear a wire and record their subsequent conversations.

Just recently, in 2011, Arthur S. and his siblings, as beneficiaries, filed a new lawsuit against their cousin, Arthur T. and others, as trustees of the Demoulas profit sharing plan alleging that the trustees made irresponsible investments in Fannie Mae and Freddie Mac. Thus, even today the dispute lives on.

The Demoulas cases were (and are) some of the most drawn out and costly pieces of litigation in Massachusetts history. There are many takeaways from this series of cases, but the most important are: litigation is always uncertain, very costly, and can drag on for many years; trust does not protect you; and, even after years of litigation, in larger companies with multiple shareholders you may still be in a situation where you have to work together with your opponent in running the company. The Demoulas dispute is ar extreme example of a relationship once built upon trust that went completely awry.

Relationships built on trust sour all the time, and often lead to lawsuits (which generally do not last as long as the Demoulas saga!). Have you lost faith in your business partner? Give us a call and we'll talk about i

This entry was posted in Damages, Family Companies, Fraud, Hot Tempers, Litigation Uncertainty by Tara Myslinski. Bookmarl the permalink [http://www.bostonbusinessdivorce.com/demoulas-v-demoulas-supermarkets-inc/] .

Comments

Demoulas v. Demoulas SuperMarkets, Inc.: A Case Study in Business Ventures Going Bad — 1 Comment

Pingback: If you shop at and like Market Basket, please read