



**DUNHAM  
TRUST COMPANY**



THE LAW FIRM OF  
**STRAZZERI MANCINI LLP**  
WEALTH STRATEGIES COLLABORATIVE

## FIDUCIARY ATTORNEY SUMMIT 2023

### CASE STUDIES WITH JOE STRAZZERI AND ANN ROSEVEAR

#### FIRST DISCUSSION (Tuesday, 9:30 – 11:00am)

**The intersection of an incompetent beneficiary, a depleting business asset, a probable large estate tax, and family disfunction.**

When Fiduciary is facing:

- A business that is losing value (“Moving Parts, Inc.”);
- A key person component held by the majority shareholder (“Mary”) who had shortened life span (1-2 years);
- A healthy, non-controlling spouse of Mary (“John”) who is desiring divorce;
- An estate facing a heavy estate tax liability now, worsening with looming tax law changes; and
- Heirs who are scared or nervous, don’t get along, and may want to exert more influence in the family, business, and handling of the estate. The heirs are the children of Mary – one (age 26) from a former spouse, and one (age 16) is John’s and Mary’s child. The older child works in the business.

Other Factors:

1. **COMPANY OWNERSHIP.** Moving Parts, Inc. (founded in 1998) is owned by Mary’s separate property NING as majority shareholder (2/3rds) and by a Nevada Completed Gift Trust that benefits the two children (“Children’s Trust”). Dunham Trust Company (“Trustee”) acts as full discretion trustee for both trusts. John does not have a direct shareholder interest in the Company.
2. **A FAMILY BUSINESS.** Mary built the vast value of Moving Parts before she married John. She transferred shares in Moving Parts in the NING in 2002. In 2018 she created the Children’s Trust, gifting 1/3 of Moving Parts to this trust. Some other interesting points:
  - a. John and Mary married in 2007, admittedly influenced by the arrival of their child.
  - b. Between 2007 – 2017. Mary took \$100k / year (far less than fair compensation) for her full-time CEO. Between 2017 – 2020 she took what was arguably greater-than-fair compensation because the business really did well.
  - c. John used to work for the company and has since retired – he is 10 years older than Mary. He was adequately compensated while at Moving Parts.
  - d. Meredith is Mary’s eldest child; she is remarkably close to Mary and vested in the success of Moving Parts. Mary has voiced considerations of giving one-third of the company to Meredith.



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3. OTHER FAMILY MATTERS:

- a. Mary and John have a revocable living trust that owns a family home and approximately \$300,000. They are co-trustees with Dunham as a successor trustee.
- b. Mary and John had expressed concern about California property tax and Prop 19 issues.
- c. Mary also has a separate property California revocable living trust that has some of the stock in Moving Parts that she did not put in the NING. This trust is also the beneficiary of her retirement account worth \$2M. The two children do not get along. John thinks Mary treats her daughter, Meredith, better than their son, James. Mary has told counsel she is considering giving one-third of Moving Parts to Meredith since Meredith has devoted the last few years to the company and her mother. You sense that John is very worried about himself and his son.

4. BUSINESS VALUATION AND MATTERS TO CONSIDER. Moving Parts was valued at \$30M when Mary completed her first estate plan. Recently you learned that a few years ago during consideration of an ESOP the company was valued at \$17M. Since then, Mary – who truly is the figurehead of the company – has been less involved as her health declines. You also learn that the company is in litigation and that will likely affect value. The litigation appears to be related to a serious error that Mary in connection with a sales relationship – something truly out of character for Mary (she never used to forget anything). made

**SECOND DISCUSSION (Wednesday, 9:30am)**

**Business Interests, Trusts, and Divorces: Fiduciary Considerations**

Solved for all from 1<sup>st</sup> case but now there is a divorce.

Mary is no longer competent due to major health event. John filed for a divorce a month after she fell ill. As her power of attorney, he also obtained certification of her incompetency by her physician. The trustee is informed of the incompetency and the divorce on the same day. This triggers the trusteeship under Mary's revocable living trusts, in addition to the previous trusteeships of the NING and the Children's Trust.