

Business Fraud an Issue in Dentist's Divorce

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The relationship of Marlin and Sheila Rekow began as a marriage of economic convenience but soon became romantic as well, and the couple married in December 1995.

Before the start of the relationship, Sheila Rekow, who had been licensed as a dental hygienist, ran Manassas Dental Centre, from which she managed as many as five dental practices with a local dentist.

After the dentist left the venture, Ms. Rekow needed another dentist to continue the business. At the time, Dr. Rekow was working in both Manassas and Maryland and earning about \$50,000 a year.

The couple agreed to work together from the clinic in Manassas, which became Dr. Marlin F. Rekow DDS and Associates, and the business prospered to the point that it employed as many as 75 associate dentists and support staff and generated as much as \$5.8 million in total annual revenue. The marriage was the second for each spouse. Dr. Rekow is 63 and Ms. Rekow is nine years younger.

The prosperity of the business diminished, although it remains lucrative, and the marriage ended last year amid allegations that Ms. Rekow engaged in a pattern of mismanagement and fraud in running the practice. Those allegations led to charges against Dr. Rekow by the Virginia Board of Dentistry and a litany of findings by Rappahannock Circuit Judge Jeffrey W. Parker of financial improprieties by the couple and professional misdeeds by Dr. Rekow.

Those misdeeds included billing two insurance companies for the same treatment, skimming cash payments to evade income tax, funneling personal expenses through the practice to reduce taxable income, and claiming credit for continuing legal dental education that was not earned.

"Incredibly," Parker wrote in his opinion determining distribution of the practice and a \$3.1 million home, "the only tangible sanctions imposed upon Dr. Rekow as a result of this have been a \$30,000 fine, a stayed suspension of his dental license conditioned upon completion of some additional continuing education courses, and the termination of his billing privileges by a couple of insurance companies."

Dr. Rekow blamed those improprieties on his wife's fraud and mismanagement of the practice. Although she disputed some of the allegations, Parker said her response went more to the degree of complicity by Dr. Rekow and the limited impact her behavior had on any diminution in the value of the practice for equitable distribution purposes.

In awarding each spouse half the value of the practice, Parker found, in essence, that they were equally responsible for the growth of the business and any detriment to it that resulted from the improprieties.

Dr. Rekow testified that he moved to a tenant house on the marital property in March 2007 and off the property altogether four months later because of tension over the charges by the Board of Dentistry

and his wife's preoccupation with her dogs, horses and a business importing luxury horse carriages from Europe. Evidence showed that Ms. Rekow diverted revenue from the dental business for those avocations, Parker found.

Dr. Rekow filed for divorce, but Parker awarded the divorce to the wife for desertion in *Rekow v. Rekow* (VLW 008-8-225). "There were no physical or emotional threats rising to the level that would justify his departure," the judge concluded. "He simply wasn't happy with the relationship and that is not enough."

On the other hand, Ms. Rekow was "not blameless in the deterioration of the relationship. Her obsession with outside activities and her business methods clearly contributed to the breakdown," Parker said.

Parker balanced the testimony of two financial experts to find that the value of the practice was \$1.7 million. He gave Dr. Rekow five years to pay \$850,000 to the wife at 6 percent interest.

He also gave Ms. Rekow the option of setting off her share of the marital home against her portion of the business. He split the equity in the home equally, with adjustments for the wife's initial contribution to the cost of the home and the husband's payments on the mortgage after the couple separated. That calculation would leave a balance due the wife of \$121,280.

Finally, the judge awarded the wife \$3,500 a month in spousal support, substantially less than the \$10,000 a month she had been receiving pendente lite. In doing so, Parker imputed \$80,000 in annual income to the wife as the manager of a dental practice or as a hygienist.

"Ms. Rekow has demonstrated a remarkable ability to manage very complex dental practices and maximize their income," the judge noted. "Presumably, she can do this again without violating any laws or ethical requirements...."

"Although it was argued ... that her 'tarnished reputation' may now make her unemployable as a dental practice manager, the issue of reputation does not seem to be stopping Dr. Rekow."