

# Sizing up the split

Economy has complicated business valuations in divorce

## South Florida Business Journal - by [Paul Brinkmann](#)

Imagine trying to determine the value of a business in a tanking economy with a yo-yo stock market and plummeting real estate prices. Then, imagine having to do it in the midst of the emotional hurricane of divorce.

That is what forensic accountants like Phil Shechter, lead partner at Coral Gables accounting firm Berenfeld, Spritzer, Shechter & Sheer, do for a living. Shechter was recently appointed to help determine the value of [Potamkin Automotive](#) companies in the divorce case of Alan Potamkin of Miami.

The auto industry is particularly difficult to value, as Detroit's Big Three automakers have said they are on the verge of bankruptcy.

"Valuing an auto dealership is a challenge, but that is what we are doing right now," Shechter said. "There's more work involved in a business valuation today than five years ago. The fees are going up. It's more complex."

Local family law attorneys and mediators say the economy is having drastic effects on business owners in divorce cases. Some couples are postponing a split or entering mediation to avoid any negative effects on a shared business. Strained incomes and falling home values are also forcing others to stay together. Overall, divorces filings have dropped 20 percent in Miami-Dade County since last year.

Shechter also sees changes in who is filing. "I see fewer filings by non-working spouses because they realize it's not a good time to seek half the business," he said. "On the other hand, I've seen some wealthy men file for divorce because their business is worth less now."

Miami attorney Alan Kluger has handled some high-profile divorce cases of wealthy people, including that of baseball player Alex Rodriguez.

"Overall, there is less divorce happening because of the economy, said Kluger, a partner at Kluger Peretz Kaplan & Berlin. "When economies recover, you often see a flurry of divorce."

Kluger, who is board-certified in business litigation and a member of the Florida Bar's family law section, said he's seeing more cases where receivers are appointed in divorce cases to handle business affairs.

"I think it will happen more often, because divorces and businesses are irretrievably broken," he said.

Business owners in divorce confront many painful financial decisions, including determining if one spouse will buy the other one out, which spouse will keep the business or whether the business should be sold to a third party.

In a buyout, questions include how it will be structured and determining the value of the business - a difficult process in a turbulent economy.

Because divorce affects control of a business, it can cause employees to take sides, feel tension or worry about their future. Businesses can't always readily afford to buy someone out.

If a growing business is deeded to one spouse after the divorce, that spouse can owe big money on taxes that year. Kluger said he has seen several recent filings by car dealers and investment bankers in which valuing the business is a big task.

The Collaborative Family Law Institute is a fairly new association of attorneys, mental health and financial professionals dedicated to helping resolve family disputes utilizing a dignified and non-adversarial process. Collaborative law, established in the 1990s, helps couples resolve differences while spending the least amount of time, energy and money.

Typically used with mediation, the process employs neutral forensic accountants to review a family's business, assets, income, liabilities and debt. They work with lawyers to settle economic issues, leaving essential time for personal issues.

"Collaborative law tries to preserve relationships, rather than destroy them. That especially applies when there is a family-owned business or jointly owned business," said Rosemarie Roth, an attorney and member of the institute. Within the institute, parties of a divorce agree not to litigate. If they resort to litigation, the institute's members are no longer involved. The process makes heavy use of mental health professionals.

"With this economy, it's very difficult to get appraisals on property," Roth said. "It's impacting the value of any assets in stocks and bank accounts."

She noted the collaborative process is faster and less costly than "scorched earth" litigation, so those involved may want to give her methods a second look.