Contents

Preface ix

About the Authors xi

Acknowledgments xv

Introduction xvii

Chapter 1
Typical Fact Patterns 1
Stephen H. Knee, Esq.

Chapter 2
An Ounce of Prevention Is Worth a Pound of Cure 5
Stephen H. Knee, Esq.
  Buy-Sell Agreement 5
  Governance 6
    Corporations 6
    Limited Liability Companies and Partnerships 6
  Dispute Resolution Provisions 7
  Buy-Sell Provisions 7
  Triggering Events 8
  Other Provisions 11
  Tax Considerations 11
Chapter 3
Psychological Dynamics of Closely Held Businesses: Impact of Partnership and Family-Owned Business Divorce

Dr. Jane M. Sullivan

Perspectives on Partnerships
  Coming Together: Business Partners
  Staying Together: Maintaining the Partnership
  When Staying Together Is Painful: Coming Apart
    Termination/Disengagement/Divorce
    The Real Issues
    Meaning of the Relationship
    Duration: Nature of the Conflict
    Irreconcilable Differences
    Influence of Advisors
    Ultimate Goal
  Multiple Partnerships

Perspectives on Family Businesses
  Definition of Family

Families in Business
  Special Dynamics
    Economic Interdependence
    Multiple Perspectives
    Childhood Histories
    Sibling Relationships
    In-Laws
    Ethnicity
    Outside Family Members
    Complexity

Sources of Conflict
  The Conflict Process
  Succession as a Special Issue

Coming Apart
  The Divorce
  Causes of Divorce
  The Divorce Process
Contents

Methods of Resolution 62
  Indirect Methods of Resolution 62
  Direct Methods of Resolution 63
Prevention/Intervention Strategies 64
  A Written Agreement 64
  Board of Advisors/Board of Directors 65
  Family Council 66
  Mentoring of Sibling Teams 67
Conclusion 68
Additional Resources 68

Chapter 4
Assembling the Professional Team 71
Stephen H. Knee, Esq.
  Attorney 72
  Accountant 72
  Investment Banker 72
  Psychologist or Business Advisor 73
  Other Professionals 73

Chapter 5
Ethical Considerations 75
Stephen H. Knee, Esq.
  Who Is the Client? 75

Chapter 6
Legal and Other Issues to Be Resolved 77
Stephen H. Knee, Esq.
  Existing Obligations 77
  Selling Owners’ Benefits 79
  Claims and Litigation 79
  Dissenters’ Rights 80
  Other Considerations 81
  Additional Resources 82
Contents

Chapter 7
Tax Issues 83
Kenneth G. Hydock, Esq.
Additional Resource 85

Chapter 8
Valuation 87
Bruce Bingham, FRICS, FASA
Approaches to Value and Key Drivers 90
  Income Approach 90
  Market Approach 92
  Cost Approach 94
What Can Be Done? 95
  Value in a Non-Litigated or Non-Arbitrated Divorce 95

Chapter 9
Methods of Resolution 99
Stephen H. Knee, Esq.
  ADR 99
    Mediation 100
    Arbitration 100
  Advantages and Disadvantages 101
  Litigation 103

Index 105