

ADVISOR DAY 2020

WAR STORIES FROM THE FRONT LINE OF ADVISING ON BUSINESS RISK

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War Stories from the Front Line of Advising on Business Risk

A. DISENFRANCHISED

- Franchising disputes

B. MY SHARES, YOUR SHARES, WE ALL SCREAM FOR MORE SHARES

- Shareholder disputes

C. BAKED DESIRE

- Property, shareholder, director, workplace and defamation dispute

Baked Desire – the parties

Old Company
2008 - 2013

Client:

- New Company, July '13
- Shares:
 - Son -> 30
 - Clients -> 60



Bakery 1

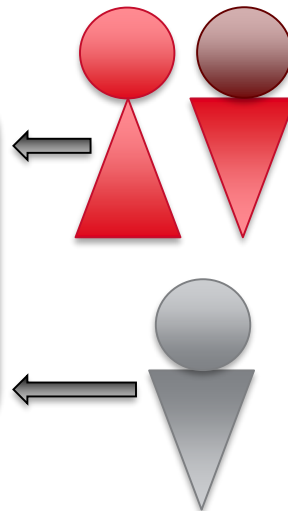
Bakery 2

Clients:

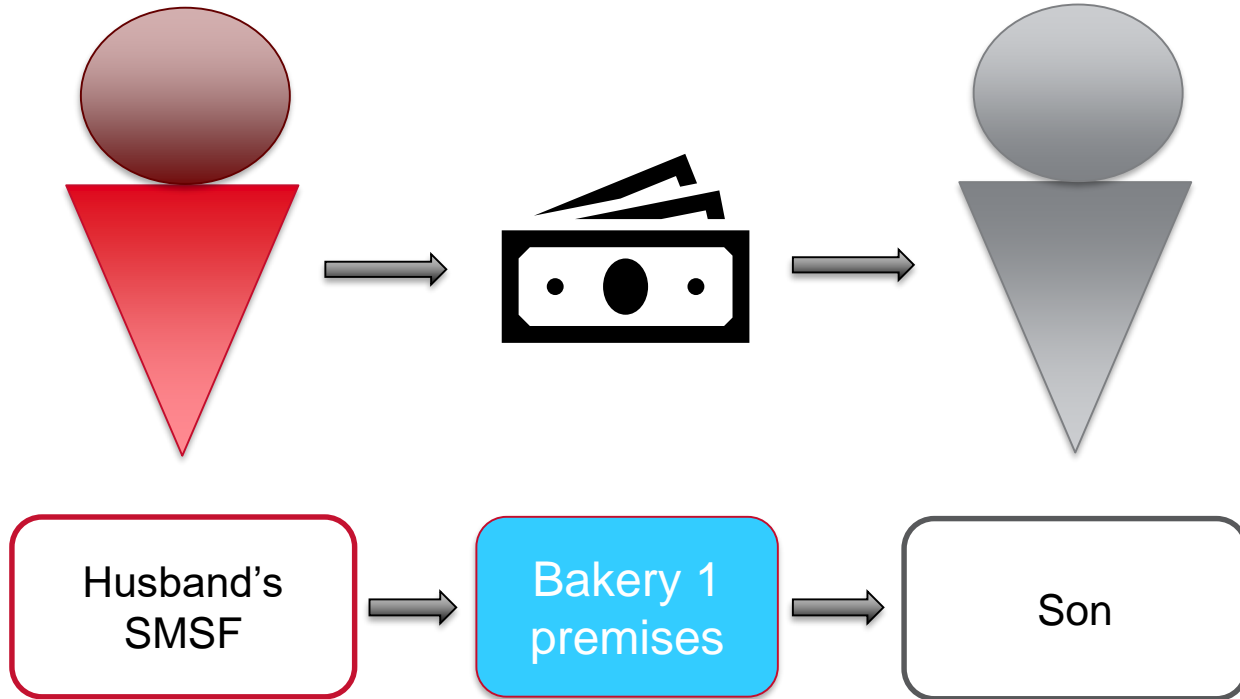
- Husband & Wife
- Directors and Shareholders of Old and New Companies

Other Side:

- Son of Husband
- Director, Shareholder and Employee of New Company



Baked Desire – setting the scene

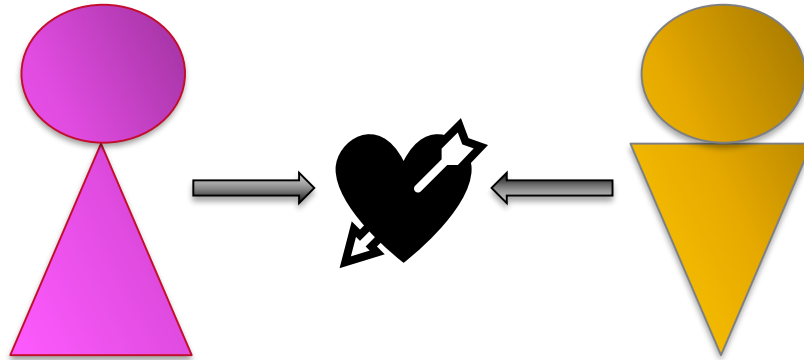


Son

CBA loan

- no deposit
- secured by Mortgages over premises, Husband's home, Son's home, and Guarantees from Husband, Son and New Company
- New Company pays CBA in lieu of rent to Son

Baked Desire – the dispute



Son's Wife

- Affair with co-worker
- Marries Son
- Employment terminated

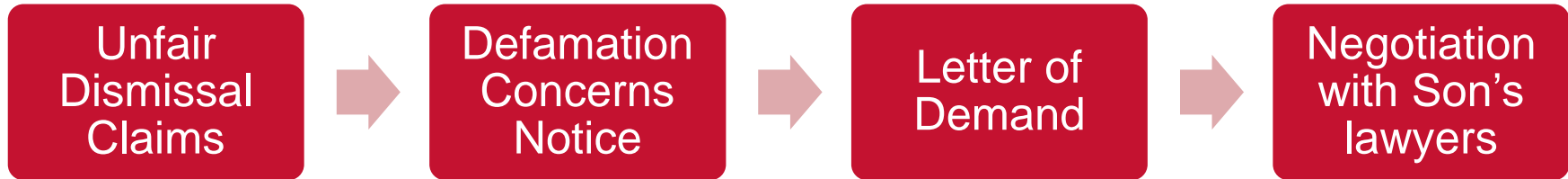
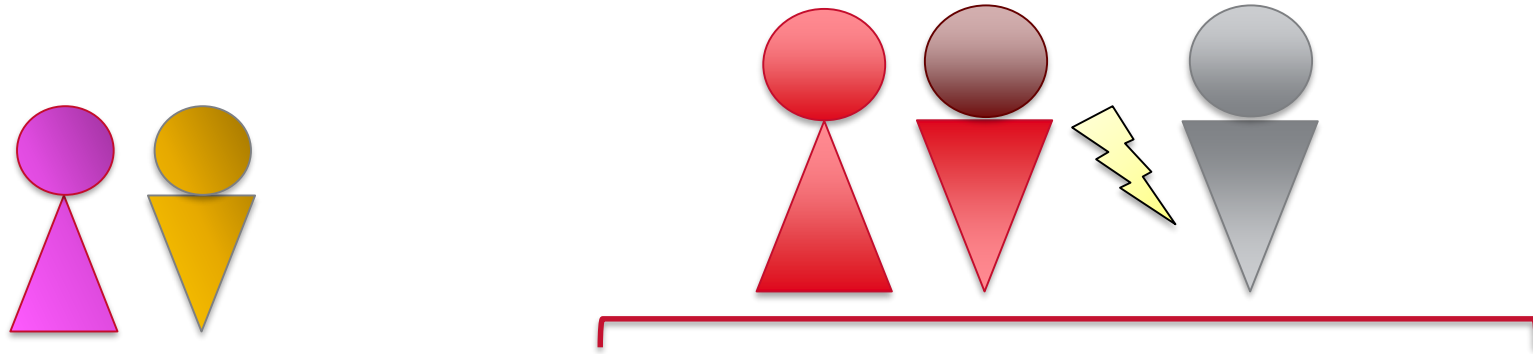
Employee

- Affair with Son's Wife
- Employment terminated

Son

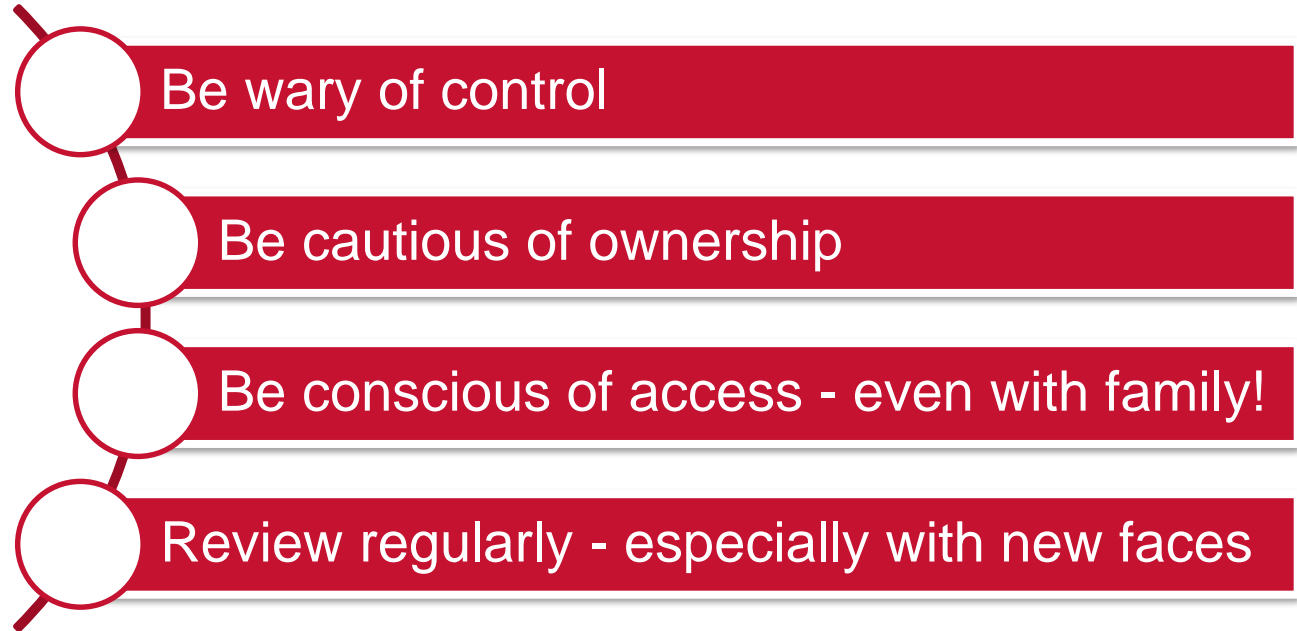
- Resigns as director and employee of New Company
- Breaches duties owed as current and former director and employee
- Defames Husband and Wife

Baked Desire – the action



Baked Desire – the lesson

When
Structuring or
Restructuring:

- 
- Be wary of control
 - Be cautious of ownership
 - Be conscious of access - even with family!
 - Review regularly - especially with new faces

If you remember three things from this session...

1. Make and keep contemporaneous notes and chronological records
2. Document agreements in writing with independent legal advice
3. Where possible, avoid one party having too much control, ownership or access

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