



PREVENTING and
settling the storms

“A Proactive Approach to Preventing and Resolving Conflicts within the Family Business”



presented by:

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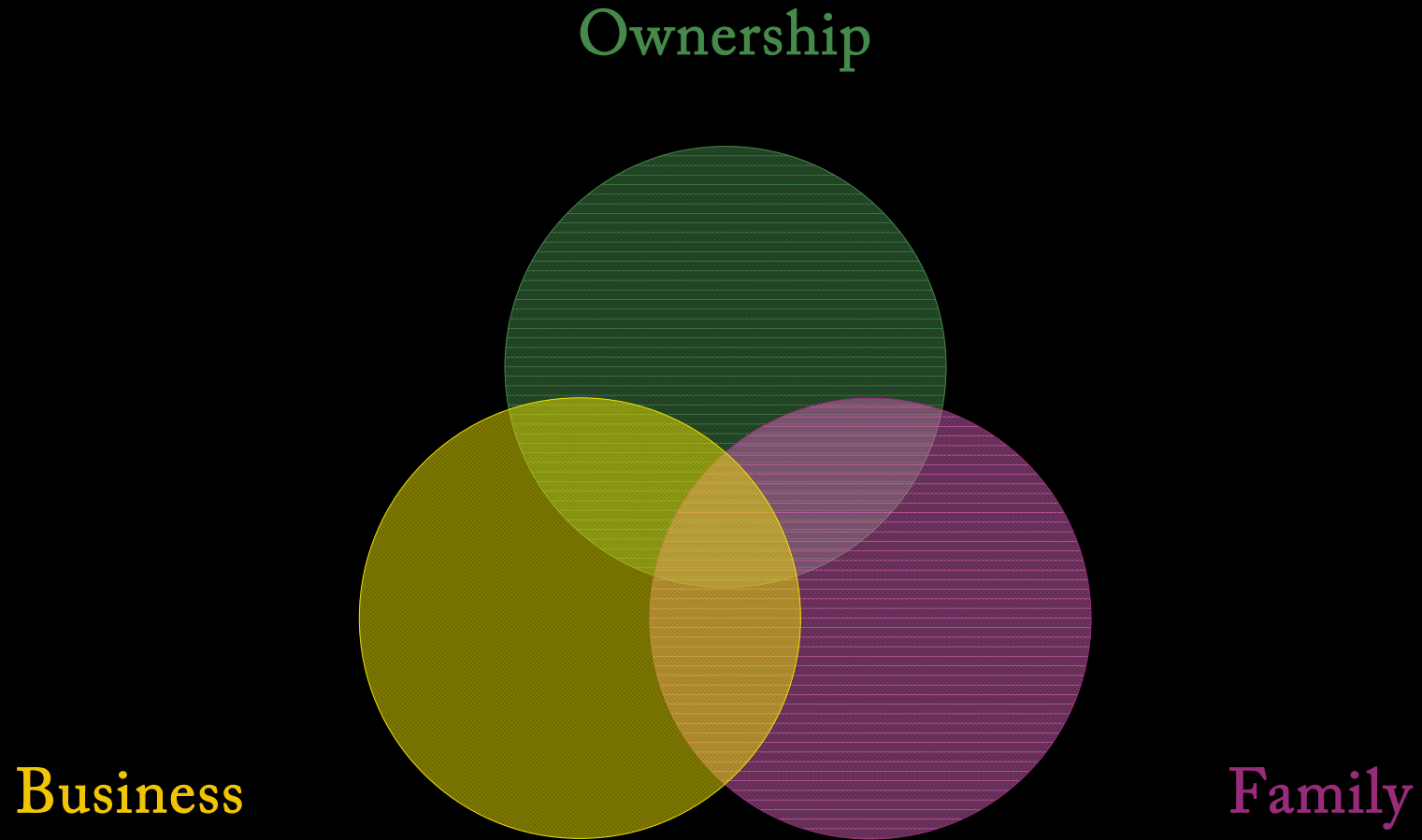
Upchurch Watson White & Max
MEDIATION GROUP

According to a Family Business Survey conducted by PriceWaterhouseCoopers (2007/08):

- More than 1/3 of respondent companies reported that discussions about the future strategy of the business cause tension.
- 30% of respondent companies experience tension in relation to the performance of family members actively involved in the business.
- Yet almost 4 out of 5 respondent companies have no conflict resolution procedures in place for dealing with disputes between family members.

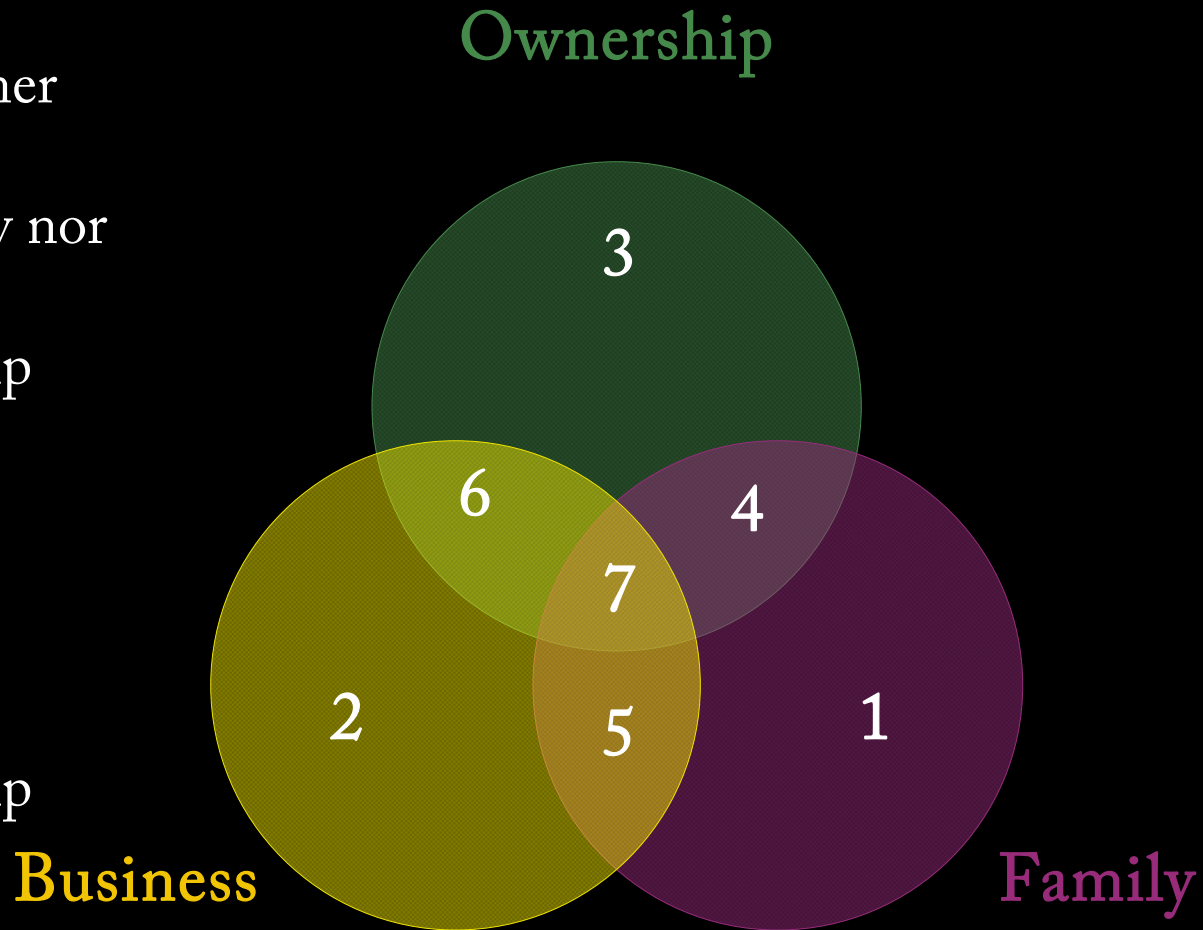
The Family Business

Three Circle Model

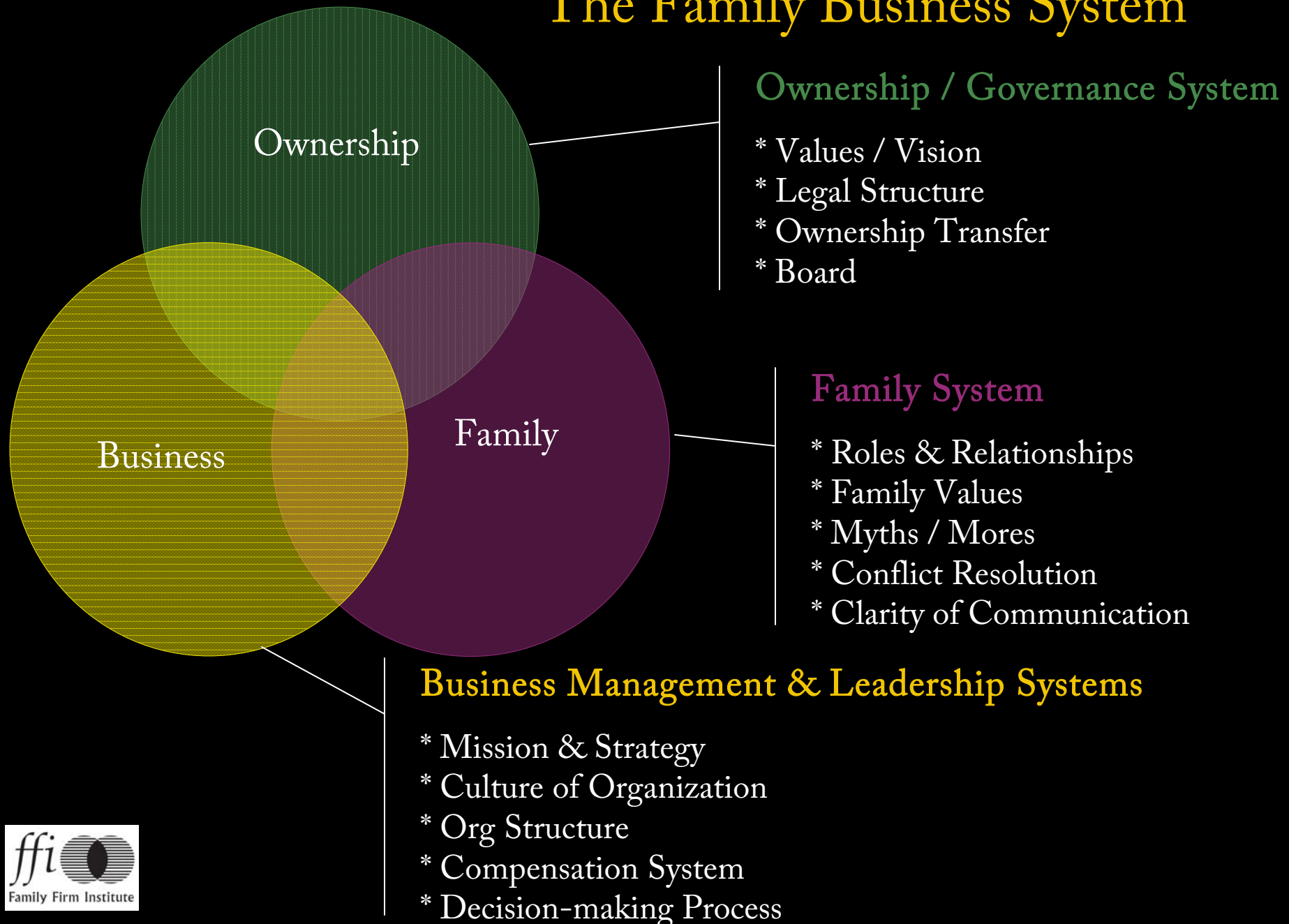


The Family Business

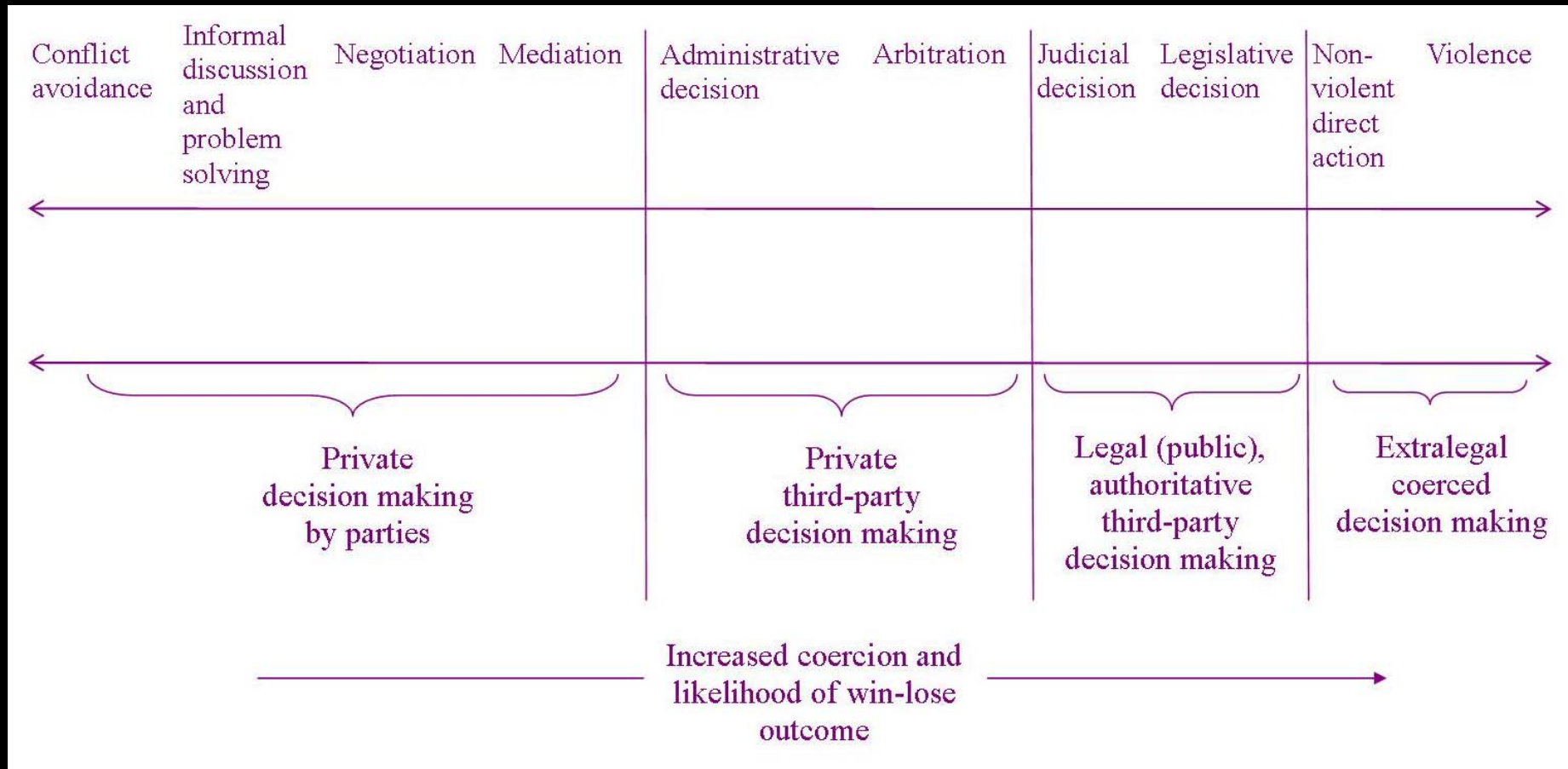
1. Family members
2. Non-family, non-owner employee
3. Owner, neither family nor employee
4. Family with ownership interest
5. Family employed in business
6. Non-family owners employed in business
7. Family with ownership interest employed in business



The Family Business System



Conflict Resolution Continuum



*Source" "The Mediation Process" by Christopher W. Moore

Family Business Mediation and Facilitation are tools to help Family Businesses flourish and thrive as they pass through generations.

- Family Business Meeting Facilitation (prevention oriented)
 - More proactive
 - Focused on assisting businesses in issue identification, goal development and planning
- Family Business Mediation (resolution oriented)
 - More reactive
 - Focused on resolution of specific problems or disputes

Definition of Family Business Mediation

- A confidential process whereby a trained professional neutral helps promote healthy family deliberations about:
 - Money
 - Succession
 - Governance
 - Other areas of conflict



Role of the Family Business Mediator (FBM)



The role of the Family Business Mediator is to function as a neutral facilitator. In contrast to the other professional advisors, the Family Business Mediator is process-oriented as opposed to content-oriented.

The Role of the Family Business Mediator in the Family Business Mediation

- The Mediator:
 - Helps coordinate the date, time, place and agenda for, and participates in the mediation
 - Explains the process of mediation and role of the Family Business Mediator to the participants
 - Works with all or parts of the professional advisory team and the client family to identify and explore issues

The Role of the Family Business Mediator in the Family Business Mediation *cont...*

- The Mediator :
 - Develops procedures for problem solving and solution implementation
 - Serves as a communication filter and regulator of the process
 - Promotes fairness in the process and self-determination
 - Remains neutral and impartial

The Mediation Process

- Mediation preparation
- The opening or joint-session
- Caucuses
- Memorialization, action plan and closure
- Post conference activities



Confidentiality of the Process



If the Family Business Mediation is conducted by a Florida Supreme Court Certified Mediator, Florida Statutes provide that all mediation communications are confidential, unless the parties agree otherwise.

Family Business Mediator Ethics

A lawyer who is also a Florida Supreme Court Certified Mediator is bound by both the Rules Regulating The Florida Bar and by the Florida Rules for Certified and Court-Appointed Mediators.

Mediators have standards regarding:

- Impartiality
- Preserving party self-determination
- Confidentiality

The Benefits of Family Business Mediation

- *Privacy*– that cannot be achieved in the pressroom or courtroom – the conference room is more private than either.
- The restoration and preservation of family relationships
- Dispute management and resolution within the family business context
- Creative and cost effective problem solving
- Productive communication

Mediation is a Process that can Produce Several Outcomes

- Agreement via joint-decision making
- A greater understanding of each other and of the issues
- A plan to gather more information, think, invite others and resume collaboration
- An understanding of the benefits of regular and facilitated communication
- Agreement on a process that is binding, such as arbitration, trial or mini-trial

Increasing the Odds of Successful Mediation

- Preparation
 - Identify your interests
 - Identify the other parties' interests
 - Explore alternatives to a mediated solution
 - Explore options for resolution
- Allowing sufficient time for mediation, understanding that it is a process and not a destination

Increasing the Odds of Successful Mediation

cont...

- Having an open mind and really listening to what others have to say
- Resisting counter-productive urges
- Having the right people at the right place at the right time
- Preparing a durable agreement

What is a Family / Family Business Meeting?

- Family / Family Business Meetings are recurring or single forums to promote productive communication among business and family members.

Why Have a Family / Family Business Meeting?

- To enhance communication
- To encourage transparency
- To promote understanding and trust within the family and the business
- To discuss and deliberate difficult issues

The primary goal of the meeting is to provide an informal forum for communication.

Family / Family Business Meeting

- Through regular Family / Family Business Meetings, a family can:
 - Promote harmony within the family and the business
 - Develop a sense of mission, vision and purpose
 - Establish priorities
 - Transfer values to the next generation
 - Cultivate family and business leadership
 - Minimize strife and “fall-out” from unresolved conflict

Family / Family Business Meeting

cont...

- And address important issues such as:
 - Estate planning
 - Business and wealth succession
 - Generational perceptions and expectations
 - Wealth management and philanthropy
 - Establishing and passing on a “legacy”

Facilitating Family / Family Business Meetings

- Mediators are uniquely gifted to facilitate Family Business Meetings because:
 - They possess expertise in facilitation and communication
 - They owe their allegiance to the process
 - They are neutral
 - They are cloaked with confidentiality

Upchurch Watson White & Max can help



*Calm & Prevent
The Storm*

*with Family Business Mediation
and Facilitation*