

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

AMY VERSLUIS YOUNG, an individual,

Plaintiff,

Case No. 14-00614-CBB

vs.

HON. CHRISTOPHER P. YATES

TERESA VANDERMEER, an individual;
and GRAND CONNECTION, INC., a
Michigan corporation,

Defendants.

_____ /

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND VERDICT

Plaintiff Amy Versluis Young and Defendant Teresa VanderMeer have designed a business model that should not only be emulated in the marketplace, but also taught in business schools. In 1999, the two women formed Defendant Grand Connection, Inc. (“GCI”) to assist clients with event planning and related services. Working out of their homes and using independent contractors known as project managers as the backbone of their operations, GCI built an enviable stable of loyal clients, developed customized registration software, and produced a roaring stream of revenue that made the two women financially secure. Unfortunately, Ms. Young and Ms. VanderMeer – who were friends as well as business partners – drifted apart as disagreements arose about the direction and operations of GCI. On January 23, 2014, Ms. Young filed this action seeking dissolution of GCI. The Court handled the matter on an accelerated schedule, conducting a three-day trial in April of 2014. Now, based upon the record developed at trial and the agreement of Ms. Young and Ms. VanderMeer that GCI must be dissolved, the Court must render a verdict prescribing the manner in which dissolution should unfold.

I. Findings of Fact

Pursuant to MCR 2.517(A)(1), in an action tried without a jury, “the court shall find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment.” The Court must render “[b]rief, definite, and pertinent findings and conclusions on the contested matters” that may take the form of “a written opinion.” See MCR 2.517(A)(2) & (3). Accordingly, the Court shall begin with findings of fact, followed by conclusions of law, and ultimately the verdict regarding the terms of dissolution.

Plaintiff Young and Defendant VanderMeer met when they were both working for a travel agency in West Michigan. On January 4, 1999, Ms. Young and Ms. VanderMeer filed paperwork to start GCI. From the company’s inception, Ms. Young served as the creative force behind GCI and Ms. VanderMeer took the lead in developing registration software. GCI lined up project managers, who acted as independent contractors, received compensation in the form of hourly pay, and played the leading role in executing events designed by GCI. Over time, GCI developed a large collection of loyal clients, so GCI’s need for project managers concomitantly increased. Today, GCI provides registration-management services for approximately 150 events per year, and the company has a host of talented, experienced project managers who execute GCI’s plans for its clients.

Plaintiff Young and Defendant VanderMeer operate GCI as a traditional corporation formed under the Michigan Business Corporation Act, MCL 450.1101, *et seq.* The two women own equal, 50-percent interests in GCI, so neither has the power to unilaterally control the company. Ms. Young serves as president and treasurer of GCI; Ms. VanderMeer serves as vice-president and secretary of GCI. The two women are the only members of the GCI board of directors. Not surprisingly, the two women have traditionally received identical compensation in the forms of equal salaries and bonuses

from GCI. In fact, Ms. Young and Ms. VanderMeer harmoniously divided up their duties and the financial rewards of GCI for more than a decade, working together as collaborators, colleagues, and friends.

In the summer of 2012, the relationship between Plaintiff Young and Defendant VanderMeer began to deteriorate. Ms. Young planned and executed a wedding event independent of GCI, which caused some hard feelings. Also, in 2012, Ms. Young had a falling-out with project manager Leah Haverdink, who thereafter chose to work only with Ms. VanderMeer. Finally, in the fall of 2012, Ms. Young had a meeting with Ms. VanderMeer, who offered to take over a much greater role in the management of GCI. Accordingly, on October 8, 2012, Ms. Young sent an e-mail to the GCI project managers in which she announced that “Tracy [VanderMeer] is now going to do the book keeping” and “she’ll be picking up mail and mailing checks, etc.” See Trial Exhibit 10. Ms. Young offered a comment in that e-mail that “I’m not sure what to do with my new free time but I can’t wait to find out.” Id. Several weeks later, Ms. Young filed articles of organization for a new entity called “Amy Young, LC.” See Defendant Teresa VanderMeer’s Counter-Claim, Exhibit D.

As Defendant VanderMeer assumed greater responsibility for the operations of GCI, many of the project managers began looking to her exclusively for guidance and directions. This created a widening schism between most of the project managers and Ms. Young, who began to believe that she was being squeezed out of GCI. Indeed, the majority of the project managers who testified at trial expressed loyalty to Ms. VanderMeer and described Ms. VanderMeer as the operational genius behind GCI. Additionally, most of the project managers characterized Ms. VanderMeer’s website design and support in the registration-management area as the most important component of GCI’s services. Thus, Ms. VanderMeer is now regarded internally as the leader of GCI.

When the rift between Plaintiff Young and Defendant VanderMeer became intolerable, Ms. Young proposed a break-up on November 14, 2013, see Trial Exhibit 20, but the two women were unable to reach an agreement. Consequently, on January 23, 2014, Ms. Young filed this action for the purpose of dissolving GCI pursuant to MCL 450.1823. Ms. Young augmented her allegations in a first amended complaint filed on February 5, 2014, and Ms. VanderMeer responded by filing a collection of counterclaims on February 6, 2014. During the trial, both women expressed the view that the Court should order dissolution, so the Court simply must decide how that dissolution should occur. In arriving at that decision, the Court recognizes that GCI remains a remarkably profitable business with a significant number of projects still in the pipeline.

II. Conclusions of Law

The Michigan Business Corporation Act provides that a corporation such as GCI “may be dissolved by a judgment entered in an action brought in the circuit court of the county in which the principal place of business or registered office of the corporation is located by 1 or more directors or by 1 or more shareholders[.]” See MCL 450.1823. Thus, Ms. Young has the authority to obtain dissolution of GCI if the directors of the corporation “are unable to agree by the requisite vote on material matters respecting management of the corporation’s affairs” and, as a result, GCI “is unable to function effectively in the best interests of its creditors and shareholders.” See MCL 450.1823. Here, the Court concludes as a matter of law that the statutory requirements for dissolution of GCI have been established. Indeed, the two directors of GCI – Ms. Young and Ms. VanderMeer – have made it clear by word and by deed that they can no longer work together for the long-term benefit of GCI. Accordingly, the Court shall order dissolution of GCI as a corporate entity.

In the process of dissolution, the Court must ensure, first and foremost, that GCI takes care of “its debts, obligations, and liabilities.” See MCL 450.1855a. Fortunately, GCI remains in a truly enviable position in that regard. According to Scott Smith, the accountant and bookkeeper for GCI, the company has turned a profit every year, it has no debts, lines of credit, or mortgage obligations, and it has a healthy balance in its bank account. Indeed, the only significant financial responsibility of GCI concerns its software license. Moreover, Mr. Smith has volunteered to take the lead role in addressing GCI’s remaining financial obligations, and both GCI principals are willing to permit Mr. Smith to assume that responsibility. Consequently, pursuant to MCL 450.1851(1), the Court shall appoint Mr. Smith to serve as receiver for GCI as it winds up its financial affairs. In that capacity, Mr. Smith shall have complete authority to collect the assets of GCI, sell or transfer GCI assets “that are not to be distributed in kind to its shareholders[,]” and pay all “debts and other liabilities” of the company. See MCL 450.1833(a)-(c). Mr. Smith shall be compensated by GCI at his customary rate of \$40.00 per hour for all of his work as receiver.

The Court recognizes that GCI has a significant number of projects in the pipeline that must be completed before its corporate existence can finally end. The Court shall supervise the process of completing these pipeline projects by dint of MCL 450.1851(1). Defendant VanderMeer shall be assigned the responsibility of picking the project manager for each pipeline project, and the money obtained by GCI for each pipeline project shall be used to pay the assigned project manager. After the project manager has been paid in full, the remaining funds from each pipeline project shall be furnished to the receiver, *i.e.*, Scott Smith, for distribution to the two GCI principals in equal shares. The Court understands that Ms. VanderMeer may well be involved in more pipeline projects than Ms. Young will be, but the two principals have always divided GCI funds equally and the Court’s

decision to allow Ms. VanderMeer to assign project managers for the pipeline projects affords Ms. VanderMeer significant control of the workload allocation as the pipeline projects wend their way to completion. When the pipeline projects have been completed and the receiver has paid all of the financial obligations of GCI, the receiver shall convert all of the remaining GCI assets to cash and then divide those cash resources equally between Ms. Young and Ms. VanderMeer.

The final matter that the Court must resolve concerns the disposition of the basic assets of GCI, *i.e.*, its trade name and good will, the domain name for its website, the website itself and the GCI e-mail system, the software license agreement with Certain, Inc., and its inventory of decor and other design accessories. Plaintiff Young argues that these core components of the business should go into extinction, but Defendant VanderMeer contends that they should be auctioned off between the two principals in a live auction. The Court rejects Ms. Young's preferred approach because the core components of GCI manifestly have substantial value, so simply retiring the trade name and the customized software dramatically reduces the resources available to the shareholders at dissolution. Indeed, the trial clearly revealed that Ms. Young and Ms. VanderMeer both assign great value to the core components of GCI. The Court also rejects Ms. VanderMeer's call for a live auction because such an endeavor may well force both principals to make increasing bids based upon an imperfect understanding of their ability to finance the ultimate purchase of GCI's core components. Instead, the Court shall order that the core components shall be sold through a sealed-bid auction between Ms. Young and Ms. VanderMeer.¹ Each party shall have until 5:00 P.M. on Friday, July 18, 2014, to submit a sealed bid to the Court for consideration. Each party must submit a cash bid; the Court

¹ Excepted from this auction shall be the decor and other design accessories that may belong to various clients of GCI. Both Plaintiff Young and Defendant VanderMeer expressed concern that several clients may have been billed for some of those items.

shall not accept a bid that, by its terms, involves financing. Therefore, the Court has chosen to allow several weeks to permit the parties to work out financing on their own before submitting a cash bid. At 10:00 A.M. on Monday, July 21, 2014, the Court shall announce the winning bid on the record in open court and thereafter make arrangement for the winning bidder to take control of GCI's core components.² The winning bidder shall have until 5:00 P.M. on Friday, July 25, 2014, to provide the payment in full to the losing bidder. If the winning bidder fails to make that payment on time, the losing bidder shall be allowed to make payment on its bid by 5:00 P.M. on Friday, August 1, 2014, in order to gain control of the core components of GCI.

III. Verdict

As explained in the Court's findings of fact and conclusions of law, the Court determines that the following verdict shall be entered. First, GCI shall be dissolved through the orderly process that the Court has defined. Second, Scott Smith shall be appointed to serve as receiver for GCI during the completion of the company's affairs, and he shall have full authority to pay all obligations of the company.³ Third, Defendant VanderMeer shall assign a project manager for each remaining pipeline project, and that project manager shall be paid by the receiver for all work on that pipeline project, with all residual revenue from each project divided equally between Plaintiff Young and Defendant VanderMeer. Fourth, the Court shall conduct a sealed-bid auction of the core components of GCI

² In arriving at this result, the Court presumes that the disappointed bidder will operate a new business in the same industry as GCI. Indeed, nothing in this verdict prevents such competition, and the parties should recognize in formulating their competing bids that the losing bidder shall not be bound by any noncompetition obligation imposed by the Court.

³ This appointment includes the payment of fees at the rate of \$40.00 per hour. If Scott Smith rejects the appointment, the Court shall select a different person to serve as receiver based upon the nominations of the parties.

under the terms spelled out above. Fifth, upon completion of all pipeline projects and the payment of all debts and liabilities, the receiver shall convert all remaining GCI resources to cash and divide that cash equally between Plaintiff Young and Defendant VanderMeer.

IT IS SO ORDERED.

Dated: June 16, 2014



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge