

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY
FLORIDA

Case No. 312017DR000305

Judge: Robert L. Pegg

IN RE: The Marriage of

JUDITH HEBERT,
Petitioner, Wife,
and

STEPHANE COTE,
Respondent / Husband.

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**ORDER DENYING WIFE' MOTION TO RECALL CLAY PRICE, CPA, AND
DENYING WIFE'S MOTION FOR REHEARING**

This cause having come on to be heard upon the wife's Motion To Recall Charles Clay Price, CPA, and Motion for Rehearing, Reconsideration, and Clarification, and the court having considered the evidence presented and argument of counsel, and being otherwise duly advised in the premises, the court finds as follows:

1. This court entered an order excluding the testimony of Charles Clay Price, CPA, regarding the valuation of Canix Colo, Inc.
2. The substance of the order was that Mr. Price did not determine a fair market value of Canix Colo using a method that used a valuation at the date of the marriage and the date of the sale.
3. The wife has asked for reconsideration of that order and to permit Mr. Price to testify regarding a valuation date of July 31, 2009.

4. The husband presented the testimony of R. James Alerding, Jr., a Certified Public Accountant. Mr. Alerding has performed over one thousand business valuations and is one of the co-authors of the Statement on Standards for Valuations Services (SSVS). This is a complex document which sets forth various standards and methodologies that must be used by a person rendering an opinion on the valuation of a business. This document was adopted for use in all fifty states by the American Institute of Certified Public Accountants. Mr. Alerding and Mr. Price are members of this organization and must comply with their standards.

5. Mr. Alerding testified extensively about the valuation (calculations) done by Mr. Price. He was of the opinion that Mr. Price's methodology does not conform to the SSVS standards in many respects. He was quite specific about the issues with Mr. Price's valuation.

6. Paragraph 45 of the SSVS says that the valuation analyst should retain the documentation he based his opinion on for a sufficient length of time. Mr. Price has no such documentation at all. This becomes a critical non-compliance issue.

7. Paragraph 31 describes the approaches to use in making a valuation: Income, Asset or Market. Mr. Price did not use any of these accepted methods. Again, a critical non-compliance.

8. The date of the valuation is important in this case. There must be an opinion of value as of the date of the marriage. Mr. Price is unable to give an opinion of value as of that date. He believes that the date of July 31, 2009 is

close enough to the date of marriage to be sufficient. The testimony of Mr. Alerding would suggest that it is not.

9. Paragraph 6 of the wife's Motion to Recall the Testimony of Mr. Price states that Mr. Price is now prepared to testify to the fair market value of Canix Colo, Inc., on the date of the marriage. Such is simply not the case.

10. The opinion of Charles Clay Price, CPA, regarding the valuation of Canix Colo, Inc. does not conform to the requirements §90.702 *Florida Statutes (2017)*. Additionally, his opinion does not meet the standards required by SSVS.

10. The new opinion of Mr. Price is should be stricken and not be admitted as evidence in the trial in this cause regarding the valuation or marital component, of Canix Colo, Inc.

It is therefore

ORDERED AND ADJUDGED as follows;

1. The new opinion of Charles Clay Price, CPA, regarding the valuation of Canix Colo, Inc. does not conform to the requirements §90.702 *Florida Statutes (2017)*.

2. The new opinion of Charles Clay Price, CPA, regarding the valuation of Canix Colo, Inc. does not meet the standards required by Statement on Standards for Valuations Services (SSVS).

3. The new opinion of Charles Clay Price, CPA, is hereby stricken and shall not be admitted as evidence regarding the valuation or "marital component" of Canix Colo, Inc.

4. The wife's Motion to Recall Account Clay Price is **DENIED**.

5. The wife's Motion for Rehearing, Reconsideration, and Clarification,
is **DENIED**.

DONE AND ORDERED this 29th day of August, 2018, in Vero Beach,
Indian River County, Florida.



ROBERT L. PEGG
Circuit Judge

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