

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-000327

03/30/2015

HON. RANDALL H. WARNER

CLERK OF THE COURT  
K. Ballard  
Deputy

ARDENT SOUND INC

WILLIAM G KLAIN

v.

ANGELA L MELAND, et al.

RICHARD G NEUHEISEL

ALICE P BEST  
5133 E. ELENA AVE.  
MESA AZ 85206

UNDER ADVISEMENT RULING

Plaintiff's October 30, 2014 Motion for Partial Summary Judgment No. 2 is under advisement following oral argument.

Defendant Angela Meland owns shares in Plaintiff Ardent Sound, Inc. that she obtained through her divorce. Her husband got the stock through a Restricted Stock Agreement dated October 1, 2000. According to the Agreement, he got 6,250 shares. The divorce decree gave Ms. Meland 50% of his shares.

Because she obtained them through divorce, the Agreement requires Ms. Meland to sell her shares back to Ardent Sound at "Fair Market Value." The Agreement further states that "the Fair Market Value of the Company shall be determined by the Company in good faith by the Company's Board of Directors." As a matter of law, this means that the value determined by the Board of Directors controls so long as the Board made a good faith determination.

Ardent Sound seeks summary judgment that the fair market value of Ms. Meland's shares is \$147,687. Two material fact issues, however, preclude summary judgment. First, the

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evidence does not establish as a matter of law that Ardent Sound's Board of Directors made a good faith determination. It hired an expert, but the report from Gorman Litigation Support Services purports to be a critique of Ms. Meland's expert's report, not an appraisal of value. Moreover, there is no evidence in the record that the Board itself, by any formal action, made a determination of value. Second, there is a fact dispute concerning the amount of shares Ms. Meland owns. For these reasons,

**IT IS ORDERED** denying the Motion.

Pursuant to Rule 56(d), the following material facts are not reasonably in dispute:

1. Ms. Meland is bound by the terms of the Restricted Stock Agreement.
2. That Agreement requires the Board of Ardent to make a good faith determination of Fair Market Value before Ms. Meland is required to sell her interest in Ardent.
3. Ardent bears the burden to prove that the Board made a determination of Fair Market Value, but Ms. Meland bears the burden to prove that the Board did not act in good faith.