



## ***Before You Get Married: How To Have Those Healthy Conversations***

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Everyone hopes for the best in life and love when it comes to marriage - as we should. But, in today's society, divorce rates are too high; the mainstream belief is that it's 50%, depending on where you are looking in the world.

Just look at Rupert Murdoch and Wendi Deng. What a mess, quite frankly. Not just because there were rumors of an affair between Deng and former British Prime Minister Tony Blair on day two of the story emerging that the two were splitting. Deng plays a significant role in the media empire Murdoch inherited - and built.

And what about Great Britain's First Lady of the culinary arts, Nigella Lawson? It's just come to light that she and Charles Saatchi are parting ways. The rumor is she found out Saatchi was divorcing her by reading it in the papers. But, it appears, they will have a (somewhat) quickie divorce, with neither side claiming money from each other.

Of course, these are extreme examples, but thought-provoking nonetheless. What can you do to set the stage for an amicable parting of the ways, if divorce

turns to the inevitable? Especially when a lot of money is at stake? Yes, pre-nuptial and post-nuptial agreements are a part of the answer. But, what's really critical is opening up healthy lines of communication and having those difficult conversations.

"There are some basic things that anybody thinking of getting married ought to do," says Boston-based Henry Foley, senior partner and co-founder of Banyan Family Business Advisors. "The main thing is to think carefully about who the person is that they are marrying. Whether they share the same values that you do. whether on critical dimensions of your life, whether it's how you express your love, romantic sexual relationship, the way you manage money, the way you think about rearing children, religious differences, etc. It's not necessarily critically important that you need to check all the same boxes. But, I think it's very important that people think very carefully."

Says Kathy Boyle, founder and president of Chapin Hill Advisors in Pound Ridge, NY: "You have to really understand that whether you were born into it, lucked into it or worked for it, your wealth is a gift. And it's your responsibility to take those steps to preserve it. And you have to separate the pragmatic piece of it, from the emotional 'I love you forever'". Money, she points out, is the number one cause of divorce.

### **Prelude to a Healthy Relationship**

What this accomplishes is it serves as a sort of prelude to having a healthy relationship with your partner as challenging as these conversations are. In the best case scenarios, it's also a means of fostering a healthier relationship with other family members. Moreover, it can ease the pre-nup talk, taking some of the emotion out of the negotiations process.



Now, if it's the case where a family business is involved - that's all the more reason to be proactive in these discussions. Generally, it's the family that will want to protect those assets. And as they have control of the business, typically, in the event of divorce, spouses will not receive an economic interest in the business or voting rights if they are fully outside of that business activity, according to Banyan Family Business Advisors' Foley. So, it's best to ascertain well beforehand what the financial safety net might look like.

There are other scenarios to consider. Perhaps the couple started a business together. Or a business owner marries someone who is working in the business. That could be a potential red flag, says Foley. Questions to think about - yes, the earlier the better - are will they continue to work for the business?

Just why is this so challenging?

Essentially, it's the misunderstood trust factor. The person marrying into the family may perceive this as a level of mistrust on the part of the (monied) intended spouse and the family, quite frankly.

Chapin Hill Advisors' Boyle recommends having an outside facilitator, whether it be an advisor, a lawyer, a mediator. This person can work holistically and collaboratively with you.

New York's Marc Minker, managing director at CBIZ MHM, has been a part of these discussions on many occasions. He agrees with Banyan Family Business Advisors' Foley on the point that when the subject such a discussion is broached, reticence can ensue, equating it to a you-don't-trust-me and you-don't-love me kind of sentiment. This can be quite difficult to overcome, he notes.

And if it's the case where people want to avoid the conversation or not have a very deep one at that, they will then set up structures, trusts, family partnerships, LLCs, other types of holding companies, that protect at least assets accumulated that are brought prior to the marriage,

he says. "That is a kind of de facto prenuptial agreement," says Minker. "It doesn't work as well. But, if you are really adamant about having the conversations at all, it's at least a way of protecting most of what you have at least brought to the table prior to getting married."

### **All Cards On the Table**

What can ensue, is a stronger relationship because you've taken the initiative to have the hard discussions, though. Minker emphasizes that it's about putting all of your cards on the table. He even goes as far as to say that you know up front whether or not there is going to be an issue, depending on if there is a nasty reaction to the mention of such a conversation.

"I'm not saying it's necessarily going to be an indicator as to whether or not the marriage is going to work, but if you are getting a lot of push back and a lot of non receptivity to that type of a situation, then as I said to a client, 'why are you sitting around playing poker with people?' It's almost a pre broadcast of what may ultimately come."

Adds Banyan Family Business Advisors' Foley: "Obviously the end result that you want is two people understanding what their partnership is going to be about; how it's going to work. But, it's also being well prepared for the very predictable fact that there will be bumps in the road."

Jacqueline Newman, managing partner at law firm Berkman, Bottger, Newman & Rodd in New York, cites an example of a couple where she facilitated these conversations. This was a scenario where the fiancée was not monied and the age disparity was great (a common occurrence, Newman notes). The two met while vacationing, fell in love and decided to get married shortly after returning to the States. Here, the then-fiance-now-husband, was having a great deal of difficulty in having the money talk. While she knew her fiance was wealthy, the significance of his wealth had not been disclosed. He felt that would affect how she viewed him and their future life together. They also discussed estate rights, spousal support and maintenance, in the event of divorce (the prenup is a given). Very touchy



subjects of granting an amazing life so be grateful and I'm taking care of you in your golden years were raised. Uncomfortable? Yes, says Newman. But, the attorney had a later discussion with the now-wife of the wealth holder.

"She said money is a difficult thing to talk about," recalls Newman. But, the woman also disclosed that the two probably couldn't have had those difficult conversations and learned how to deal with them - and learned to have future difficult conversations had they not gone through this prior to the marriage. "She said she learned that it's okay to be upset and to be hurt by something like this. And to get through it, to figure out a way to get everyone's concerns and be respectful. She actually said that she didn't want the prenup initially but that after the process, it really was a good omen for their marriage."

### **A Sense of Security**

Starting the conversations has a different meaning, too. Newman said she met with a group of wealthy men in a discussion on the psychology of wealth. They said they started talking about prenups when their children were very young. This creates a scenario where the topic is considered commonplace - and so not personal against the person he wants to marry, she says. As opposed to bringing someone home and stating he or she wants to marry that person. If you suddenly bring up the issue of a pre nup, it can be perceived to be personal.

CBIZ MHM's Minker agrees: "My guidance to clients when they start seeing their kids getting into serious relationships is to start having the kids get exposed to financial matters, to go through an educational process so they are more apt to care about the wealth they are inheriting and to understand what that responsibility is."

Banyan Family Business Advisors' Foley takes it a step further, noting that conducting family retreats fosters more understanding and acceptance among non-blood family members. It's a collaborative effort to better define values," he says.

But, these discussions signal health in the relationship -

hopefully even in the event of divorce - because there would be a history of discipline in having the tough talks and having the ability to do it constructively, Foley adds.

Berkman, Bottger, Newman & Rodd's Newman offers an example where she represented a client who did prenup and then went back to her for the divorce.

Did such discussions make the divorce easier? On some level, yes, she says. "Everything was on the table with the prenup," she points out. During the marriage there are no secrets; assets have been disclosed and everything has been bared. Upon the divorce, you are not fighting at the same level, because you know what the structure is. "Fear of the unknown is incredibly scary," says Newman. "So when you have a better sense of what that's going to be, I think that would just give you a sense of security."