

IACP 2018 Forum: Collaborative Creativity: Workshop #1

Being a Collaborative Team Player: The Evolving Ethics of Teamwork

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The parties engaged in the collaborative process with a team including two coaches, a child specialist, two experienced collaborative lawyers who have a good relationship with each other and a financial specialist.

Before initiating the process, the coaches identified concerns about the mental health of each client. The parties, lawyers, coaches and financial specialist all believed that the parties were both “difficult” people. Nonetheless, they concluded that they would be able to bring the case to resolution even if the process becomes contentious or challenging because they are committed to good communication and good teamwork.

The parties reached some agreements, but the Husband did not always follow through on his assignments. In spite of being prepared for difficulties, and with a considerable investment in the process, it became increasingly difficult to manage and maintain client cooperation on the part of both parties. Nonetheless, some progress was made in developing the financial information and property division agreements.

Based on work done with the Financial Professional, the parties agreed to pay their real estate taxes before the end of the year from an account they identified. Some shared income tax savings were expected to result from following this plan.

In early December, Wife discovers that Husband has withdrawn the money from the account earlier than expected. Wife's coach is concerned that Wife is unnecessarily mistrustful but suggests that Wife call her lawyer. Wife's lawyer then calls Husband's lawyer to ask about the early withdrawal. Husband's lawyer was unaware of the early withdrawal and agreed to consult with Husband.

Together the lawyers contacted the Financial Professional who also had no knowledge.

After the early withdrawal, just before year end, Husband called the Financial Professional and asks him to repeat the advice and questions the amount of the tax savings involved. The Financial Professional repeated the advice and reminded Husband of his agreement to pay the taxes. Husband mentioned certain other bills he identified as pressing that were outstanding and indicated to the Financial Professional that had other sources of funds available to pay the taxes including a loan available to him from a family member before year end. Financial Professional again reminded Husband of the agreement to pay taxes but did not ask Husband about the early withdrawal. Financial Professional did not mention this call to any other team members.

Husband told his lawyer that he had paid the taxes with the withdrawn money, and Husband's lawyer told Wife's lawyer that the money was used to pay the taxes. Wife then discovered that the taxes were not paid. Husband's lawyer learned later that Husband simply spent the money on other bills and the taxes were not paid.

Husband assures his lawyer that he is expecting to receive other funds to pay the taxes well before the deadline. Husband's lawyer is embarrassed and does not want Wife's lawyer to think that lawyer had advance knowledge or condones Husband's actions in any way. Later, Wife's lawyer learns of Husband's conversation with the Financial Professional after they had alerted the Financial Professional of the payment question.