

# Robert Hojnoski Weighs in on Ongoing Legal Battle Between Flynt Brothers on ABCnews.go.com

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### **Porn Empire Rocked by Flynt Brothers Lawsuit**

Pornography king Larry Flynt is being sued for \$20 million by his younger brother, Jimmy, who claims he was wrongfully terminated from the family's business. Jimmy says Larry has stopped paying him his \$250,000 salary and has tried to force him out of the family's several Hustler-branded operations, which include casinos, clubs, retail outlets and publications, including Hustler magazine.

Larry's attorney, Amanada Lenhart of Dinsmore & Shohl, says in response: "Jimmy's baseless claims have already been rejected by two different judges, and we are confident that his latest desperate attempt to harass Mr. Flynt will be similarly dismissed." She added that Larry "has tried to help Jimmy for many years" and that "it is disappointing, though not surprising, that Jimmy has rewarded Mr. Flynt's generosity with frivolous litigation."

Jimmy's lawsuit, explains his attorney, Robert Hojnoski, is part of a larger, ongoing dispute involving the brothers' respective ownership stakes in the business and their use of Hustler trademarks.

Though Hojnoski says Larry and Jimmy were once close, relations curdled in 2009 when Jimmy's sons started a business of their own using the Hustler name. Larry sued to stop them and insisted that Jimmy exercise his influence as the boys' father to get them to desist. The boys persisted, and relations between the elder Flynts deteriorated.

How are relations today? "Strained," says Hojnoski, "non-existent. They haven't made up." Yet for 40 years the two worked closely together to build the Hustler business. They traveled together and at one time lived together.

Complicating things now is the fact that business relations between the two were based on understandings that were oral, not written. Hojnoski says that's not unusual for a family company, whether it's a porn publisher or a bakery. These enterprises tend to be based, he says, on "loose, informal, trusting relationships. There's often a laxity in how they're set up and organized."

Tom Deans, an expert on family businesses, agrees. "I wish I could say this is rare," he says, referring to Larry and Jimmy's Cain-and-Abel tussle. "But within a family business it's very typical. Often in a family business, in the early days, a lot of shortcuts get taken and there isn't any formalizing of job descriptions. Families get into business and think that trust and love will prevail. In the fullness of time, it usually doesn't work out particularly well."

## Control Issues

"These guys are fighting about control," says Tom Deans, author and expert on family businesses. "They've got more money than they can possibly consume. They're not fighting about money but about who had what, when and how. There was a verbal agreement, never codified." Their problems today go back to the early days of the business, when things were "loose and informal."

Wasn't it odd that Larry and Jimmy, as the business grew, didn't insist on a more formal arrangement that would have spelled out their respective status, responsibilities and rewards? Deans, author of "Every Family's Business," says no, that's not odd at all, at least where family businesses are concerned.

The higher the stakes, the less inclined family members become to risk upsetting the status quo. If they press for an arrangement more formal and explicit, they might get what they want. But they might not. "The majority of their net worth has been in the retained earnings of the business," says Deans. Whether the business is five years old or 25; whether revenues are four-figure or eight-, the emotional and political dynamics remain the same. If things seem to be working okay as is, nobody wants to rock the boat. Nobody wants to press for greater clarity.

"So," says Deans, "the timing is never good. There's too much personal risk."

It's not that family members don't see the downside to doing business in a loosey-goosey way, or that they don't see the potential pitfalls. It's that every family believes it will be the exception, Deans explains. "They believe the business will prevail because the family will prevail. But that's not usually the case." Too much can happen. "Spouses enter in, siblings are born, parents die. Succession issues arise. It gets very clouded, very complex; and usually it all gets resolved in court."

Hojnoski says Jimmy feels that he has been treated shabbily. "In a family business, when there's a breakup, there are always disputes over ownership issues and employment," he says. Often times, he says, it comes down to one person saying: "Look, I don't care what's written on any piece of paper, but I've been here from the beginning, and I have an ownership interest. My value and my contributions have to be recognized. You can't just kick me out on the street."

Dean believes the destruction of the Flynt brothers' relationship prefigures the dissolution of the business and of the family fortune, which, he predicts, "will get ground down" in the courts and more legal wrangling. "The last chapter in a family business," says Dean, "too often is Chapter 11."