



The Privileged Valuation: Who Should Order the Business Valuation?

By: Edward W. Cotney, CPhD, CExP, FWC

*How Dr. Peter Romano Protected His Dental Legacy
and His Family's Future*

Dr. Peter Romano had spent 31 years building *Romano Family Dental* from a modest two-chair office into a thriving \$6 million per year multi-location practice with 18 employees, including three associate dentists and a pediatric specialist. He knew the patients, the procedures, the production targets - but what he didn't know was how to get out.

At 63, Peter wasn't burned out, but he was ready to ease off the gas. His wife, Carla, had been dreaming aloud for years about visiting Tuscany - not as a checklist tourist, but slowly, like true Italians. Their youngest son had just had their first grandchild. Peter wanted to be present. Less time with molars, more time with memories.

He'd fielded a few unsolicited inquiries - DSOs fishing, private equity sniffing - but Peter never responded. He didn't know the true value of his practice; was skeptical outsiders would care for his team or patients the way he did and was deeply concerned about capital gains taxes - potentially totaling 33% between federal and California rates. He knew that tax would cost millions and significantly reduce the assets available to fund his retirement income.

Then came a simple lunch that changed everything.

Enter the Counselor

Peter met up for lunch with an old friend, Jeff Hays, at the golf club. Jeff had sold his regional optometry group two years earlier. What impressed Peter wasn't just the payoff - it was how *at peace* Jeff seemed.

Jeff asked the obvious: "So, what's your exit plan?"

Peter chuckled. "I don't have one. But I know I probably should."

Jeff leaned in. "Then don't start with a broker. Start with your attorney."

Peter blinked. "Why?"

Jeff explained: "If you get a valuation done on your own, that number can become discoverable in litigation, IRS reviews, or negotiations with buyers. But if your attorney

orders it - for legal planning purposes - the report can be protected under attorney-client privilege. It stays in the legal file, not your public records.”

Peter nodded slowly. That made sense. In a world of legal discovery and aggressive buyers, numbers have a way of becoming anchors - or worse, liabilities.

The Legal Armor

Peter reached out to his longtime attorney, Barbara Hoyt. She’d handled practice leases and employment matters but wasn’t a tax strategist. When Peter mentioned attorney-driven valuations, Barbara paused.

“Let me bring in someone with more expertise,” she said. “We’ll work together.”

She introduced him to Jonathan Z. Feldman, a dental transition attorney with a calm presence and strategic mind.

“Peter,” Jonathan explained, “before you talk to any buyer, you need to know your number. But *how* we get that number matters. If I engage the valuation firm, and state the purpose is for legal strategy - succession planning, estate design, or asset protection - then we can assert attorney-client privilege. That gives us time to plan without pressure.”

Jonathan continued, “We can then explore all options: gifting interests, a structured sale, a charitable strategy, selling to an associate or even a DSO - without leaving a discoverable paper trail.”

Peter exhaled. “So, if I never sell, I haven’t boxed myself in?”

“Exactly.”

The Valuation Begins

Within a week, Jonathan engaged ValuEdge Analytics, a firm experienced in healthcare, dental practice appraisals and bifurcating personal versus corporate goodwill. The engagement letter stated the purpose was legal planning and all communication would go through legal counsel.



Peter and his office manager provided five years of financials, production by provider, payer mix, hygiene recall metrics, and adjusted EBITDA schedules. A site visit followed quiet and professional.

Three weeks later, the draft valuation arrived: \$5.9 million, with a possible DSO range of up to \$7.2 million due to recurring hygiene revenue and Peter’s brand equity (goodwill).

Jonathan sat down with Peter to review the numbers.

“This gives us control,” he said. “Now we can model exit strategies to reflect your goals - not just the check.”

Because the valuation was legally privileged, Peter could test ideas, map scenarios, and take his time.

The Planning Phase

With the valuation secured, Jonathan brought in a tax strategist with a background in philanthropic lifetime income planning.

Over the next month, they ran three exit models:

1. **Outright Sale to DSO**
2. **Secured Structured Installment Sale**
3. **Sale + Charitable Income Structures**
4. **Associate Buyout via Installment with Tax Mitigation**

Each was mapped in detail - with tax exposure, income replacement, and charitable impact modeled using real numbers. None had to be disclosed. Peter was in control.

A Turn of Events



Just as Peter was leaning toward the charitable trust model, something unexpected happened.

A large DSO - SmileBridge Group - reached out. They were expanding regionally and had heard great things about *Romano Family Dental's* pediatric and ortho referral base.

“Would Dr. Romano consider a private conversation?” the email read.

Peter forwarded it to Jonathan.

“Do we respond?” he asked.

Jonathan replied, “Absolutely. But through me.”

Jonathan made the initial contact - attorney to attorney. No books were opened. No staff alerted. Just quiet exploration.

Eventually, SmileBridge made a formal offer: **\$6.8 million**, all cash.

Thanks to the valuation, Peter knew where the offer stood. And thanks to the privilege protections, no one outside the legal team had seen the planning.

The Final Play

Peter accepted the \$6.8 million offer. But the real win was in the structure:

- **60% of his ownership** was transferred pre-sale into a Secured Structured Installment agreement with an open investment architecture
- That portion sold tax-deferred and generated an **income stream of \$350,000 per year**
- **15%** of his ownership was donated to a Charitable Lifetime Income Trust, bypassing capital gains tax, producing a **\$1.0M charitable deduction and additional income of \$61,200.00 per year**
- The remaining **25%** was sold outright and taxed as capital gains, but wait...
- His total tax was further reduced by claiming the **\$1.0M Deduction**
- He funded legacy trusts for his kids and established an education endowment in his father's name

And it all began with a valuation that no buyer, no advisor, and no auditor ever saw, because it was legally privileged.

Reflections from Florence

Six months later, Peter sat on a terrace in Florence, enjoying espresso with Carla as the church bells echoed across the piazza.

His phone buzzed. A quarterly payment had hit his account.

"I almost called a broker first," he said with a smile.

"But you called a lawyer instead," Carla said, raising her cup.

"To privilege," Peter toasted.



Author's Note:

When preparing to exit a dental practice, *order matters*. Involving a qualified attorney early - especially to commission the business valuation - can preserve attorney-client privilege and keep sensitive financial data out of reach of buyers, their due diligence process, litigators, or the IRS.

Attorney-ordered valuations are more than legal tactics, they are strategic tools which unlock tax deferral structures, charitable planning, and income modeling without creating discoverable records.

Additionally, one often-overlooked tool is the **Kovel Letter**, which extends attorney-client privilege to CPAs or valuation firms hired *by the attorney* to support legal advice.

This protection ensures sensitive analysis stays within the legal umbrella, not as part of your business records.

In short: *Structure matters. Timing matters. Privilege matters.*

And for practice owners like Dr. Romano, that's not just smart lawyering, it's the foundation of a peaceful, purposeful, tax smart exit transition.

The team at PerspectiV Planning (www.PerspectiVplanning.com) has the resources you need when your money counts the most. Your business will change hands one day. Our advice is for you to run your business as if it is for sale everyday – because it is!

If you do not have a “tax smart exit plan” in place today, give us a call.

To learn more about the single most important transaction of your life, reach out to **Edward W. Cotney at 530-913-0562 or Ed@EdCotney.com.**

Books by Edward W. Cotney:

Tax Secrets Made Simple
The Great IRA Tax Grab
The Business Owners Guide to Tax Freedom

Countless CE videos can be found on You Tube under his name.