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## School district smartly cut its losses with Tocco



Mitchell  
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IN MY OPINION

As bad as it has been for the Fort Worth school district lately, board trustees understood the painful truth last week: Things could be worse, much worse.

Imagine Superintendent Thomas Tocco suing the district for defaming his character or withholding money that was stipulated in his contract.

Imagine the deposition schedules and discovery requests for administrators, trustees and teachers.

**SCHURMAN** The Fort Worth school board resolved the superintendent crisis the right way: with a friendly divorce.

Imagine the legal fees.  
Imagine the skeletons that Tocco could drag out of the closet after 10 years at the top of such a political organization.  
Imagine a new board, with a new

superintendent, still dogged by the Tocco dispute years from now.

And all for what? To send the message that Tocco must pay — and pay a lot — for what went wrong at the Fort Worth school district.

Forget about it. That price was too high, in both real money and potential money, so the board did just the right thing one week ago: It settled on a friendly divorce.

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*Continued from 1C*

Maybe it paid more than it had to — a bit more — but it got what it wanted. Tocco is essentially gone, and the school district can start to move forward.

Tocco was fatally tainted by a \$10 million kick-back scheme because he failed to prevent it, and he failed to act decisively after learning about it. There's been no evidence that Tocco was directly involved, but as the top man in the organization, he had to take the fall; the only question was how hard.

Tocco agreed to step down after the school year and be reassigned until December, through the end of his contract. And the board agreed to let him collect his usual salary, most of his accrued vacation and sick pay, and his full retirement package.

That sounds like a smart compromise to me. But it bothers many people, including my colleagues on the *Star-Telegram* editorial board, who criticized the deal. Many folks wanted to throw the book at Tocco, to admonish him publicly, to hold back every penny allowed under his contract.

That's understandable, but it's bad business. The district may have saved about \$37,000, but it may have invited a lawsuit, too. That's tricky territory at best.

Even if the district won the case, it would lose — lose more money than it stood to gain in legal fees alone, and in embarrassing revelations. If it lost the suit, the damages could really hurt.

The board already has plenty of bad business decisions to deal with; Tocco's generous contract, for example, protected him from being fired for mere incompetence. It would have been wrong-headed to saddle the next generation of leadership with more of the same.

With a settlement, we can turn the page and get on with the future, start preparing for the board elections in May and the recruitment of a new superintendent.

One board member wanted to go further than cutting Tocco's salary by 25 percent, the maximum allowed under the contract. T.A. Sims, the only board member to vote against the deal, wanted to limit the sick pay that Tocco had claimed and force him to go to court for it.

"When little people come before us, we're not

afraid to tell them that they're going to have to sue," Sims said. "The same ought to apply to the superintendent, too."

As a theory, that sounds right. But it's a high-stakes gamble, with more downside than up. Businesspeople know that it's dangerous to let your money get mad, and that could have easily happened in this situation.

"There's a significant price to be paid to make an example out of an employee," said Rogge Dunn, a Dallas lawyer who specializes in labor law. "I always counsel people to step back from that emotional response."

Consider two parallel cases involving Michael Eisner, the chief executive of Walt Disney Co. He's been under siege recently by shareholders, because of Disney's faltering performance and his mixed record with senior executives.

Two of his worst moves at Disney involved Michael Ovitz, his No. 2, and Jeffrey Katzenberg, his third in command. Eisner brought in Ovitz from Creative Artists, a big talent agency, but Ovitz struggled from the beginning.

After 14 months, Eisner cut him free and gave him a \$90 million severance package. It was outrageous, and shareholders later sued over the expense, but at least Ovitz left quietly.

Eisner went a different route with Katzenberg. After Katzenberg was passed over for the No. 2 spot, he left Disney and claimed that he was owed hundreds of millions in film royalties.

Eisner refused, saying Katzenberg had two years remaining on his contract. The case eventually went before a mediator, where it turned ugly for Disney.

On the stand, Eisner conceded that he may have said about Katzenberg, "I hate the little midget."

Soon after, Disney settled the case, with Katzenberg reportedly getting \$250 million to \$280 million.

Five years earlier, when the dispute began, Katzenberg had been willing to settle for about \$100 million, according to press reports.

Such huge numbers have nothing in common with Tocco and the Fort Worth school district. But the lesson on risks and rewards fits.

A friendly divorce might cost more than you want to pay. Compared with the alternative, it can be worth it.