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DECREE ENTERED NOVEMBER 24, 1980 - M.B. 115, Page 233

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

BOOK 5688 PAGE 699 Tr #2 64-16-9 Tr #1 64-16-10 ST

BENJAMIN RECHTER, Plaintiff,	)	
v.	)	No. 79-1278-II
RICHARD EUGENE RUDESILL, Defendant.	)	

FINAL DECREE

This cause came on for trial on Thursday, the 13th day of November, 1980, before the Honorable C. Allen High, Chancellor of the Chancery Court, Part II, for Davidson County, Tennessee. The Plaintiff, Benjamin R. Rechter, was present and represented by counsel. The Defendant, Richard E. Rudesill, failed to appear either in person or by counsel, and the intervening Defendant, Ruth Hilton Nixon, was present and represented by counsel.

Prior to trial, the Plaintiff moved to further amend his Complaint by adding thereto additional paragraphs, to be numbered 12, 13 & 14, in accordance with written Motions previously filed with the Court. The Court was and is of the opinion that said Motions are well taken and should be granted, and so ordered.

Thereupon, the Plaintiff moved for a judgment by default against the Defendant, Richard E. Rudesill, based upon his failure to appear at trial, and further moved for a Motion to dismiss the Defendant's counter-complaint for lack of prosecution, both of which Motions the Court felt were well taken and should be granted, and so ordered.

Whereupon, the Plaintiff presented its proof by testimony and documentary evidence, including an accounting of Partnership

affairs by Mr. Marshall Dennison, an independent Certified Public Accountant, during which the Plaintiff requested leave to submit interest figures on amounts wrongfully withdrawn from the Partnership funds by the Defendant, Rudesill, during the term of the Partnership, which interest figures are to be calculated by Mr. Dennison and filed as a late-filed exhibit.

After the proof was taken, the Court rendered oral Findings of Fact and Conclusions of Law, which are incorporated herein by this reference. Pursuant thereto, and in accordance with the proof, the Court is of the opinion and finds that the Defendant, Rudesill, caused the dissolution of the subject Partnership in contravention of the Partnership Agreement and that the Plaintiff, Benjamin Rechter, should be permitted to continue the Partnership business from and after the date of dissolution, which shall be October 31, 1980, and for that purpose should have and possess the Partnership property in accordance with Tenn. Code Ann. §61-1-137 (b)(2), and in addition thereto should have judgment against the Defendant, Rudesill, for the amount of Rudesill's negative capital or equity balance in the Partnership plus interest on amounts wrongfully withdrawn by Rudesill at the rate of ten percent (10%) per annum in accordance with Tenn. Code Ann. §47-14-123. The Court further finds that the counsel fees, fees of experts, and costs of preparation of this suit, as shown by affidavits filed subsequent to trial, are properly chargeable to the Partnership, and that the Defendants' share of such expenses would increase his capital deficit by one-half the amount thereof, for which the Plaintiff should recover judgment. Bird v. Collette, 168 S.W.2d 797 (Tenn. App. 1942).

Wherefore, it was and is

ORDERED, ADJUDGED and DECREED that:

1. The Plaintiff's Complaint is amended to add additional paragraphs 12, 13 & 14 in accordance with written Motions heretofore

filed by the Plaintiff and granted by the Court preliminary to the trial of this matter.

3. That the Plaintiff, Benjamin Rechter, have and recover from the Defendant, Richard E. Rudesill, a judgment in the total amount of $38,838.51 Dollars, comprised of $6,362.60 representing the deficit in Rudesill's capital account based on the fair market value of the Partnership property; $450.00 Dollars, representing one-half of the fee of George Thomas, Real Estate Appraiser; $1,881.00 Dollars, representing one-half the fee for the services of an expert Certified Public Accountant; $6,438.68 Dollars for half the legal fees and costs of preparing this suit; and $23,706.23 Dollars for interest lost on amounts wrongfully withdrawn by the Defendant, Richard Rudesill, during the term of the Partnership.

4. That any and all interest of the Defendant, Richard E. Rudesill, in the Partnership property, described below, is hereby divested out of the said Defendant and vested in the Plaintiff, Benjamin R. Rechter in fee simple absolute, including all Partnership personal property, leases, and the real property, including all improvements and leases thereon, described as follows:

TRACT 1

Land in Davidson County, Tennessee, being Lot B on a Plat of record in Book 4895, Page 2, Register's Office of Davidson County, Tennessee, according to a survey by Parrish-Ragan, Inc., Licensed Surveyors, dated July 22, 1974, more particularly described as follows:

Beginning at a point 100 ft. north of the northerly margin of Lebanon Road, which point lies on the common boundary line between the land herein conveyed and the Charles H. Turner land, of record in Book 4019, Page 217, Register's Office of Davidson County; thence from said beginning point north 1° 45' west 169.20 ft. along the common boundary line with Turner; thence south 88° 10' west 197.5 ft. to a point in the easterly margin of Andrew Jackson Parkway; thence south 4° 25' east 170.13 ft. along the easterly margin of Andrew Jackson Parkway; thence north 87° 56' east 189.6 ft. to the point of beginning.

Being a portion of the property conveyed to Richard E. Rudesill by deed from J. R. Freeman, Trustee, by deed of record in Book 4855, Page 108, Register's Office of Davidson County, Tennessee, and by Quitclaim Deed from Richard E. Rudesill to Richard E. Rudesill and Benjamin Rechter, a Partnership, by deed of record in Book 5016, Page 27, Register's Office of Davidson County, Tennessee.

TRACT 2

Land in Davidson County, Tennessee, being Lot C on a plat of record in Book 4885, Page 2, Register's Office of Davidson County, Tennessee, according to a survey by Parrish-Ragan, Inc., dated July 22, 1974, more particularly described as follows:

Beginning at a point 269.2 feet north of a marker in the northerly margin of Lebanon Road, said marker being the southwest corner of the Charles H. Turner property, of record in Book 4019, Page 217, and the southeast corner of the Fidelity Federal Savings & Loan Association property of record in Book 4909, Page 386, Register's Office of Davidson County, Tennessee; thence from said beginning point which is located in the westerly boundary line with Turner north 1° 45' west 100.0 feet to a concrete monument; thence north 84° 51' west 204.73 feet to a concrete monument in the easterly margin of Andrew Jackson Parkway; thence south 4° 25' east 125.0 feet to an iron pin in the easterly margin of Andrew Jackson Parkway; thence north 88° 10' east 197.5 feet to the point of beginning.

Being a portion of the property conveyed to Richard E. Rudesill from J. R. Freeman, Trustee, of record in Book 4855, Page 108, Register's Office for Davidson County, Tennessee, and by Quitclaim Deed from Richard E. Rudesill to Richard E. Rudesill and Benjamin R. Rechter, a Partnership, by deed of record in Book 4996, Page 64, and by Quitclaim Deed from Richard E. Rusesill (sic) and Nona J. Rusesill (sic) to Richard E. Rudesill and Benjamin R. Rechter, a Partnership, by deed of record in Book 4998, Page 416, both in the Register's Office of Davidson County, Tennessee.

5. That the Plaintiff, Benjamin R. Rechter, may continue the business of the Partnership and that he shall indemnify Richard E. Rudesill against all present or future Partnership liabilities in accordance with Tenn. Code Ann. §61-1-137 (b)(2).

6. That the costs of this cause are taxed to the Defendant, Richard E. Rudesill, for which execution may issue if necessary.

Enter this _____ day of November, 1980.

C. Allen High

The Hon. C. Allen High, Chancellor

cc: Richard E. Rudesill
121 Nandina Road
Gulf Breeze, Fl. 32561

Wayne B. Glascow, Jr., Esq.
238 Public Square
Franklin, Tn. 37064

CERTIFICATE OF THE CLERK AND MASTER

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

BOOK 5688 PAGE 704

I, JOHN MITCHELL GRISSIM, JR., Clerk and Master pro tem of the Chancery Court of Davidson County, Tennessee, do hereby certify that the foregoing is a full, true and correct copy of the FINAL DECREE

of said Court, in the cause wherein BENJAMIN RECHTER

Plaintiff ( ) VS. RICHARD EUGENE RUDESILL

Defendant ( ), FILE NO. 79-1278-II, as the same appears of record and now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of said Court at my office in the Courthouse at Nashville, Tennessee, this the 3rd day of DECEMBER, 19 80, and 205th year of American Independence.

JOHN MITCHELL GRISSIM, JR. CLERK AND MASTER
pro tem

BY _____
DEPUTY CLERK AND MASTER

Certificate of Authority of Document Registration

DEC 10 3 53 PM '80
FELIX Z. MITCHELL REGISTER
DAVIDSON COUNTY, TENN.

IDENTIF. REFERENCE

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