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IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

MAKI LIN SIBERT

VS. No. 85D-3480

ROBERT SULLIVAN SIBERT

FINAL DECREE BOOK 7113 PAGE 624

This cause came on to be heard on the 3rd day of April 1986, before the Honorable Phillip Robinson, sitting as Special Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon the Complaint for Absolute Divorce filed by Maki Lin Sibert against Robert Sullivan Sibert; personal service of process had upon the Defendant, Robert Sullivan Sibert; judgment by default duly entered against the Defendant, Robert Sullivan Sibert; a written, notarized Child Custody, Child Support and Property Settlement Agreement tendered to the Court; testimony of the Complainant, Maki Lin Sibert, in open Court; statement of counsel; and the entire record in this cause.

From all of which the Court finds that the parties have suffered irreconcilable differences, pursuant to Section 36-4-103, et seq., Tennessee Code Annotated, and the Complainant, Maki Lin Sibert, should be awarded an absolute divorce from the Defendant, Robert Sullivan Sibert.

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that the bonds of matrimony heretofore subsisting between the parties be and the same are hereby and forever perpetually dissolved, and the Complainant, Maki Lin Sibert, be and she is hereby granted an absolute divorce from the Defendant, Robert Sullivan Sibert, and restored to all the rights and privileges of an unmarried person, including the restoration of her former name, Maki Lin.

It is further ORDERED, ADJUDGED and DECREED by the Court and the Court affirmatively finds that the parties have made adequate and sufficient provision by written agreement for the equitable settlement of any property rights between the parties and that the Agreement heretofore entered into between the parties and tendered to the Court for approval is hereby approved in all respects and made a part of this Final Decree, by inclusion, as follows:

CHILD CUSTODY, CHILD SUPPORT AND PROPERTY SETTLEMENT AGREEMENT

THIS CHILD CUSTODY, CHILD SUPPORT AND PROPERTY SETTLEMENT AGREEMENT is entered into on the day and dates hereinafter stated, by and betweeen MAKI LIN SIBERT, hereinafter referred to as the "Wife," and ROBERT SULLIVAN SIBERT, hereinafter referred to as the "Husband," subject to the following premises and terms and conditions:

W I T N E S S E T H: That

WHEREAS, the Wife has filed a Complaint for Absolute Divorce against the Husband in the Circuit Court for Davidson County, Tennessee; and

WHEREAS, the parties have suffered certain irreconcilable differences in their marriage, resulting in their marriage becoming irretrievably broken, with no apparent possibility of reconciliation and the parties intend to live apart the rest of their lives; and

WHEREAS, the parties desire to enter into this Child Custody, Child Support and Property Settlement Agreement, not out of levity or collusion, but to amicably settle their differences with respect to all property rights and to enter into a contract for the settlement of such rights and obligations to avoid unnecessary litigation and the attendant emotional stress and expenses which would accompany the same, not only for the present, but for the future, it being the intention that such contract will be affected with respect to all of their property and other matters of concern irrespective of whether a divorce is finally concluded between the parties; and

WHEREAS, both parties are aware of their possessions and obligations one to the other; and

WHEREAS, both parties are aware of their legal rights insofar as any contemplated Court action and have been advised by counsel; and

WHEREAS, the parties intend to tender this Child Custody, Child Support and Property Settlement Agreement to the Court for approval in the event a divorce is granted in this cause.

NOW, THEREFORE, for and in consideration of the premises hereinabove stated, and the mutual covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the parties agree as follows:

I. CHILD CUSTODY.

1.1. Child Custody. The parties are the parents of one (1) minor child, namely: **SHAWN LIN SIBERT**, born 11 January 1976. The parties hereto agree that both are the fit and proper persons to have the care, custody, and control of the minor child of the parties, and the parties shall be jointly vested with custody of the minor child, but that the best interests of the child require that the Wife shall be vested with primary care, custody, and control, subject to the Husband's rights of visitation and sharing said custody as hereinafter contained. The parties further agree that the Wife shall not remove the minor child from the jurisdiction of this Court, other than for vacations, holidays or visits, without the prior written consent of the Husband or prior approval of this Court.

1.2. Visitation. The Husband shall have reasonable visitation privileges every other weekend from Friday at 3 p.m. to Sunday at 6 p.m., one (1) day during the week from 3 p.m. to 9 p.m., one-half of all holidays, one-half (1/2) of the summer, with no more than any two (2) consecutive weeks, and at all reasonable times and places and as agreed upon by the parties hereto.

1.3. General Welfare. It is further agreed between the parties that they will always conduct themselves in such manner as to be conducive to the welfare and best interests of the minor child. The parties shall confer with each other on all important matters pertaining to the child's health, welfare, education and upbringing, with a view to arriving at a harmonious policy to

promote the child's best interests. The parties shall promptly notify each other in the case of the minor child's serious illness while in her or his physical custody.

II. CHILD SUPPORT.

2.1. Child Support. The Husband shall pay directly to the Wife the sum of Two Hundred Fifty ($250.00) Dollars per month for the support and maintenance of the parties' minor child, until such minor child reaches the age of eighteen (18) years or graduates from high school, which last occurs. Disposition of any and all monies received hereunder by the Wife from the Husband for child support shall rest in the Wife's sole discretion, and she shall not be required to account thereto to the Husband. The parties acknowledge that the sum which the Husband is required to pay hereunder is fair, suitable and a proper sum to be paid to the Wife for the support, maintenance and education of their child, that is commensurate with the financial means and social position of the parties, that it would enable the Wife to maintain the child on a scale to which she and the child are accustomed, and that it is within the Husband's ability to pay.

2.2. Voluntary Payments. Any payments voluntarily made by Husband to Wife or either of the child at any time for the support and education of the child, in excess of the amounts herein specified, shall not alter the Husband's legal obligations hereunder nor create any precedent for the future. Such excess payments shall not be construed as proof or indication of the Husband's ability to make increased payments, nor the Wife's need therefor; and, accordingly, they shall not be used in any proceedings for evidentiary purposes or otherwise.

2.3. Medical Insurance. Husband shall maintain medical insurance covering the parties' minor child. A copy of said policy and proof of designation of the parties' minor child as insured thereunder shall be furnished to the Wife upon her request.

2.4. Additional Medical and Dental Bills. For so long as Husband pays child support pursuant to the terms of this Agreement

or any Court Decree, Husband and Wife shall each pay one-half (1/2) of all medical bills incurred on behalf of the parties' minor child, which medical bills are not covered under the policy of insurance mentioned in Paragraph 2.3 above. Said bills shall include, but not be limited to, doctor's bills, dentist bills, hospital bills, bills for prescription medicines, and any and all other bills for medical care of the parties' child.

2.5. Life Insurance. For so long as Husband pays child support pursuant to the terms of this Agreement or any Court Decree, Husband agrees to maintain in full force and effect a policy of life insurance on his life in the amount of at least $50,000.00, payable to the minor child as beneficiary, until such time as the child reaches eighteen (18) years of age or graduates from high school, whichever last occurs. Upon request of the Wife, Husband shall provide Wife with a copy of the policy and prove that the proceeds of the same are payable to the minor child of the parties and that the premiums on the same are current and not past due. Likewise, Wife agrees to maintain in full force and effect a policy of life insurance on her life in the amount of at least $50,000.00, payable to the minor child as beneficiary, until such time as the child reaches eighteen (18) years of age or graduates from high school, whichever last occurs. Upon request of the Husband, Wife shall provide Husband with a copy of the policy and prove that the proceeds of the same are payable to the minor child of the parties and that the premiums on the same are current and not past due.

2.6. Income Tax Deduction. The Husband shall be permitted to retain and use the minor child as a deduction upon his U. S. Individual 1040 Income Tax Return.

2.7. Private School Tuition. When the Husband receives his longevity pay in the summer of 1986, he shall pay the same to the private institution to be used, together with the funds to be set aside from the Merrill Lynch Account as hereinafter provided, to pay the child's private school tuition for the 1986-87 school year.

III. REAL PROPERTY.

3.1. Residence. The parties acknowledge that they are the owners, as tenants by the entireties, of certain real property located at 1408 Breckenridge Court, Whites Creek, Davidson County, Tennessee, as evidenced by Deed of record in Book 5353, page 109, Register's Office for Davidson County, Tennessee. The parties acknowledge that the residence shall be sold and that the sales price shall not be less than $126,900.00, except upon subsequent written agreement of the parties. Upon sale of the residence, the proceeds from the sale shall be distributed as hereinafter stated. Husband shall vacate the residence on or before a divorce may be granted in this cause. If the residence is not sold by the time a divorce may be granted in this cause, the property shall be vested in the Wife. The Husband shall be awarded a lien against the property for his share of the proceeds from the sale of the residence as hereinafter stated. Husband hereby irrevocably waives his right to maintain any action to enforce his lien unless and until Wife fails to make the first mortgage payments as hereinafter required, Wife discontinues using the real property as her residence, or vacates the residence, or May, 1987, whichever first occurs. Upon the sale of the real property, either before or after a divorce may be granted in this cause, the proceeds from sale, after deducting the reasonable costs of sale and the first mortgage indebtedness, shall then be distributed as follows, to wit: (1) Twenty Three Thousand ($23,000.00) Dollars to the Wife; and then (2) the balance split and divided one-half (1/2) to the Wife and one-half (1/2) to the Husband, with the provision that, if the Husband does not receive Thirty Three Thousand ($33,000.00) Dollars, the Husband shall be entitled to an additional sum, not to exceed Three Thousand ($3,000.00) Dollars, but, in no event, shall the Husband receive more than Thirty Three Thousand ($33,000.00) Dollars, it being provided further that, if the sales price of the residence is more than $126,900.00, and after deducting the reasonable costs of sale, the first mortgage indebtedness, and the $23,000.00 payable to Wife, the parties shall each be entitled to one-half (1/2) of the remaining balance.

3.2. First Mortgage. The residence is encumbered by a first mortgage indebtedness in favor of Fidelity Federal Savings and

Loan Association, as evidenced by Deed of Trust from Robert S. Sibert and wife, Maki L. Sibert, to Vaden Lackey, Jr., Trustee, as shown of record in Book 5353, page 111, Register's Office for Davidson County, Tennessee. Wife shall assume and pay said first mortgage indebtedness and shall defend, indemnify and hold Husband harmless of the same.

3.3. Utilities and Repairs. The Wife shall assume the payment of all utilities, including, but not limited to, gas, water, electricity and telephone, and shall indemnify and hold the Husband harmless of the same and shall be responsible for the payment of all repairs necessary for the proper upkeep and maintenance of the residence, with the exception of any repairs to the sewage absorption system or connection to the Metropolitan Sewer System, if required.

IV. PERSONAL PROPERTY.

4.1. Personal Belongings. The parties shall each be awarded his or her own wearing apparel, jewelry and other personal belongings.

4.2. Household Furniture. The Husband shall be awarded the following articles of household furniture and furnishings, to wit: Brown sofa (corduroy), Lazy Boy, African bird tapestry, mermaid sculpture, ferrous metal sculpture, Gilbert kitchen clock, antique wall clock, Howard Miller grandfather's clock, two (2) ladder back chairs, brown stoneware dishes, white stoneware dishes, his sterling flatware, nest of tables, fern stands (cherry and rattan), dresser and night stand, one (1) floor lamp (three-way), one (1) dresser lamp, teak wall unit, rattan wall unit, straw wall hanging, teak dining-game table, Sony color television, patio furniture, consisting of table and four (4) chairs, Chinese painting (rectangular frame), lawn mower and drill and bits. Husband shall assume any outstanding indebtednesses on the household furniture and furnishings awarded him hereunder, and shall save, indemnify and hold the Wife harmless of the same. All the rest, residue and remainder of the household furniture and furnishings located at the parties' residence at 1408 Breckenridge Court, Whites Creek, Davidson County, Tennessee, shall be awarded

to the Wife. Likewise, Wife shall assume any outstanding indebtednesses on the household furniture and furnishings awarded her hereunder, and shall save, indemnify and hold the Husband harmless of the same.

4.3. Automobiles. The Wife shall be awarded the 1978 Mercedes Benz and the 1981 Dodge van automobile, and shall assume the outstanding indebtedness on the same and shall save, indemnify and hold the Husband harmless of the same. The Husband shall be awarded the 1985 Toyota Camry automobile, and shall assume the outstanding indebtedness on the same and shall save, indemnify and hold the Wife harmless of the same. Both parties further agree to execute any and all titles to said automobiles conveying all of his or her right, title and interest in and to said automobiles, and to return any set of keys to said automobiles in his or her possession. The parties further hereby recognize that each shall be responsible for securing such bodily injury, liability and property damage insurance on the vehicle(s) awarded to her or him, and that neither party shall have any responsibility to the other party for obtaining such insurance.

4.4. Bank Accounts. The Husband hereby relinquishes any claim he may have in and to the proceeds of Wife's individual checking and/or savings accounts and the Designer Collections account with Mid-State Educators Credit Union, and acknowledges that the same are the sole and separate property of the Wife. The Wife, likewise, hereby relinquishes any claim she may have in and to the proceeds of the Husband's individual checking and/or savings accounts with Mid-State Educators Credit Union, and acknowledges that the same are the sole and separate property of the Husband.

4.5. Merrill Lynch Account. The parties acknowledge that they have a Cash Management Account with Merrill Lynch, Pierce, Fenner & Smith, Inc., Account No. 576-90760. From this account, the parties shall take Twenty Five Hundred ($2500.00) Dollars to be used to pay the private school tuition for the parties' minor

child for the school year 1986-1987. The balance of the account, after the payment of the costs of this litigation, including reasonable attorney's fees, shall be divided equally between the parties, with the further provision that the Husband shall not receive more than One Hundred ($100.00) Dollars from the balance of the Merrill Lynch Account.

4.6. 1985 Income Tax Return. The parties shall file their 1985 U. S. Income Tax Return "Married, Filing Jointly". Any tax liability owed or tax refund received as determined by the Internal Revenue Service shall be divided equally between the parties. The parties shall each be responsible for one-half (1/2) of any charges for tax return(s) preparation.

4.7. Business Property. The parties acknowledge that the Wife operates two (2) businesses, The Orient Design and Designer Collections. The Wife shall be awarded all of the assets of the businesses, including, but not limited to, kilns, other pottery making equipment, wheels, shelves, scales, glazes, chemicals, name, good will, inventory, and in general, all assets to be shown on the year-end Balance Sheet 31 December 1985. The Wife further agrees to assume any and all outstanding indebtednesses of the businesses and shall save, indemnify and hold the Husband harmless of the same, and specifically a Lease Agreement entered into on or about 25 May 1984, by and between HSW Partnership, a Tennessee General Partnership, and Designer Collections, for approximately 1,104 gross square feet on the Plat of Park Place Shopping Center, Nashville, Davidson County, Tennessee.

4.8. Specific Debts. The Wife shall pay the balance of any business charges and one-half (1/2) of any remaining charges on the MasterCard account with Commerce Union Bank and shall pay the VISA account with Commerce Union Bank, and shall save, indemnify and hold the Husband harmless of the same. The Husband shall pay the Sears account, the Cain Sloan account, and the balance of the MasterCard account with Commerce Union Bank, not paid by the Wife, and shall save, indemnify and hold the Wife harmless of the same. If the parties are assessed any income tax liability for

previously filed U. S. Income Tax Returns, each party shall be responsible for one-half (1/2) of any deficiency and liability resulting therefrom, and shall save, indemnify and hold the other party harmless of the same.

4.9. Other Debts. The parties further agree that she/he shall be solely responsible for the payment of all outstanding individual debts incurred by her or him prior to the date of the execution of this Agreement, except as otherwise set forth herein, and that each shall hold the other harmless from any liability for such individual debts. It is further understood and agreed between the parties that, from the date of the execution of this Agreement, neither will contract any indebtedness upon the credit of the other and that, if either shall be compelled to pay any future debt of the other, then the party for whose benefit such payment shall have been made will indemnify the other to the full extent of the amount paid, inclusive of interest and legal expenses, if any.

V. ADDITIONAL CONSIDERATIONS.

5.1. Acceptance by the Parties. With respect to each party's responsibility for the payment of certain debts and liabilities and her or his obligation to hold the other harmless for the payment thereof, the parties understand and agree that their obligation is a non-dischargeable debt under 11 USC 523(5) of the Bankruptcy Act, this obligation being part of the financial support settlement for both parties. This financial obligation on the part of both parties is not a part of the property settlement.

5.2. Confidentiality. The parties agree to keep confidential any actual, purported or potential grounds for divorce that either may have against the other and not to use such matters against the other hereto in any manner whatsoever or for any purpose whatsoever.

5.3. Change of Name. The Wife's name shall be changed to Maki Lin.

VI. MISCELLANEOUS.

6.1. Divorce. The Wife shall proceed with obtaining an absolute divorce from the Husband upon the grounds of Irreconcilable Differences.

6.2. Attorney's Fees. The reasonable fees to John R. Reynolds for his good and valuable services rendered in this matter shall be paid by both parties from the Merrill Lynch account.

6.3. Court Costs. The final costs of this cause shall be paid by both parties from the Merrill Lynch account.

6.4. Tax Exempt Status. This Agreement is a transfer of appreciated property between spouses in connection with a divorce and is not a sale or exchange or other disposition of property, but is an equal division of property by co-owner.

6.5. Entire Agreement. It is understood and agreed between the parties hereto that this Agreement is intended to be a final settlement of all property rights of the respective parties hereto and is a full discharge from all of the claims arising out of their marital relationship and that each hereby remises, waives, releases and forever discharges the other from any and all claims arising out of their marital relationship and that each hereby waives and relinquishes to the other all rights or claims which each may have or hereafter acquire under the law of any jurisdiction of the other's property, including, without limitation, dower, curtesy, statutory allowance, homestead, right to take against the will of the other, inheritance, descent and distribution, or right to act as administrator or executor of the other's estate; and this agreement applies to all property now owned by the Husband and Wife or any property either of them may acquire in the future.

6.6. Future Considerations. The parties further agree to sign and all instruments, documents, titles, covenants, tax waivers or deeds necessary to carry out the full intent and purposes of this Agreement. Furthermore, the parties acknowledge

that they shall continue to live separate and apart for the rest of their lives and shall be free from interference, authority and control, direct or indirect, by the other as fully as if sole and unmarried. Each may reside at such place or places as he or she may select. Each may, for his or her separate use and benefit, engage in employment, business or profession, which he or she may deem advisable.

6.7. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto, their personal representatives, heirs, assigns and successors in interest.

6.8. Arm's Length Transaction. The parties acknowledge that they have jointly entered into this Child Custody, Child Support and Property Settlement Agreement, after arm's length negotiations, and that any ambiguity or uncertainty existing herein, if any, shall not be interpreted against either party.

6.9. The parties acknowledge that they have read this instrument in its entirety and have signed this instrument and that this instrument is entered into freely, knowledgeably, in good faith and without exertion or duress or undue influence, fraud, coercion or misrepresentation, or for any reason not herein stated. The provisions of this Agreement and the legal effect are fully known by each of the parties, and each party acknowledges that the Agreement is fair and equitable and that it is being entered into voluntarily.

6.10. No waiver of any breach or default hereunder or misrepresentation contained herein shall be implied from any omission of the non-defaulting party to take any action on account of such misrepresentation, breach, or default.

6.11. The parties shall promptly notify each other in writing of all matters which may give rise to a right of indemnification hereunder, and the indemnifying party shall have the right to settle and, at his/her own expense, to defend through counsel of his/her own choosing, any action which may be brought in connection therewith. In the event that the indemnifying party

fails or refuses to contest any claim which may give rise to a right of indemnification hereunder, the other party may contest or settle such claim, which action shall not constitute a waiver of their rights hereunder.

6.12. Submission to Court. The parties acknowledge that this Agreement, subject to Court approval, shall be incorporated in and be made a part of any Decree of Divorce as may be entered hereafter.

Executed on this 5th day of December 1985, by the Wife, and on this 5th day of December 1985, by the Husband.

Maki Lin Sibert 12-5-85

MAKI LIN SIBERT - Wife

Robert Sullivan Sibert 12-5-85

ROBERT SULLIVAN SIBERT - Husband

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, the within named MAKI LIN SIBERT, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who acknowledged that she executed the within instrument for the purposes therein contained.

Witness my hand and official seal at Nashville, Tennessee, this 5th day of December 1985.

Notary Public

My commission expires 9 July 1989

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, the within named ROBERT SULLIVAN SIBERT, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand and official seal at Nashville, Tennessee, this 5th day of December 1985.

Notary Public

My commission expires 9 July 1989

It is further ORDERED, ADJUDGED and DECREED by the Court that all right, title and interest the Defendant, Robert Sullivan Sibert, has in and to the following real property known as 1408 Breckenridge Court, Whites Creek, Davidson County, Tennessee, be, and the same is hereby, divested out of Robert Sullivan Sibert and vested solely in the Complainant, Maki Lin Sibert, said real property being more particularly described as follows, to wit:

> Land in Davidson County, Tennessee, being Lot No. 18 on the Plan of Breckenridge Valley Subdivision, as of record in Plat Book 4460, page 167, Register's Office for Davidson County, Tennessee.
>
> Said Lot No. 18 fronts 113.57 feet on the North side of Breckenridge Court and extends back 233.39 feet on the East line and 333.34 feet on the West line, to a dead line, measuring 249 feet thereon.
>
> Being the same property conveyed to Robert S. Sibert and wife, Maki L. Sibert, by deed of record in Book 5353, page 109, Register's Office for Davidson County, Tennessee.
>
> Maki L. Sibert and Maki Lin Sibert are one and the same person.

The current addresses of the parties are as follows: Complainant, Maki Lin Sibert, 2817 West End Avenue, Nashville TN 37203; and Defendant, Robert Sullivan Sibert, 1408 Breckenridge Court, Whites Creek TN 37189.

The costs of this cause are assessed against both parties, for which let execution issue, if necessary.

Enter this 16th day of April 1986.

SPECIAL JUDGE

Approved for Entry:

JACKSON, TANNER & REYNOLDS

JOHN R. REYNOLDS
Attorney for Complainant
216 Third Avenue, North
Nashville TN 37201
Tel: (615) 256-2694

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Decree has been mailed to the Defendant, Robert Sullivan Sibert, 1408 Breckenridge Court, Whites Creek TN 37189.

This 7th day of April 1986.

John R. Reynolds

cc: Ms. Maki Lin

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IDENTIFICATION REFERENCE

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FELIX Z. WILSON, REGISTER
DAVIDSON COUNTY, TN

STATE OF TENNESSEE

I, **GEORGE L. ROOKER,** *Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the Order heretofore entered in the* Fourth *Circuit Court for Davidson County, Tennessee, on the* sixteenth *day of* April, *19* 86, *in Case Number* 85D-3480 *between* MAKI LIN SIBERT, *Plaintiff, and* ROBERT SULLIVAN SIBERT, *Defendant, as same remains of record in Book* 152A, *Page* 586 *of the Minutes of said Court.*

IN TESTIMONY WHEREOF, *I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the* third *day of* June *in the year one thousand nine hundred and* eighty-six *and in the* two hundred tenth *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By W. L. Rowland, *D.C.*

Form #GR-117