1993/883

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

1991 AUG 20 PM 4:21

GEORGE L. ...

JUDY CAROLYN SMITHSON

vs. No. 90D-3089

GARY NELSON SMITHSON

BOOK 8456 PAGE 258

FINAL DECREE

This cause came on to be heard on the 20th day of August, 1991, before the Honorable Muriel Robinson Rice, Judge, upon the Original Complaint for Absolute Divorce heretofore filed in this cause by Mrs. Smithson, Answer and Counter Complaint for Absolute Divorce filed by Mr. Smithson, subsequent agreement of the parties to withdraw the Answer and Counter Complaint filed by Mr. Smithson and allow Mrs. Smithson to proceed on a non-contested basis, submission to the Court of a Marital Dissolution Agreement heretofore signed by the parties, testimony of Mrs. Smithson, statement of counsel in open Court and from the entire record in this cause. From all of which the Court finds that these parties have suffered irreconcilable differences as set forth in T.C.A. 36-4-101(11). It is therefore,

ORDERED AND ADJUDGED by the Court that the Answer and Counter Complaint heretofore filed in this cause by Mr. Smithson is hereby dismissed.

It is further **ORDERED AND ADJUDGED** by the Court that the bonds of matrimony heretofore subsisting between the parties be, and the same are, hereby forever and perpetually dissolved and the Complainant, Judy Carolyn Smithson, is granted an absolute divorce and restored to all the rights and privileges of an unmarried person.

It is further **ORDERED AND ADJUDGED** by the Court, and the Court affirmatively finds, that the parties have entered into a written Marital Dissolution Agreement which makes an equitable division of the marital properties and the Court approves said agreement and incorporates same herein verbatim as follows:

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

1991 AUG 20 PM 4:02

GEORGE L. [illegible]

JUDY CAROLYN SMITHSON,
Plaintiff

VS.

NO. 90D-3089

GARY NELSON SMITHSON,
Defendant.

MARITAL DISSOLUTION AGREEMENT

THIS AGREEMENT is entered into by and between JUDY CAROLYN SMITHSON (hereinafter referred to as "Wife") and GARY NELSON SMITHSON (hereinafter referred to as "Husband"), subject to the following premises, terms and conditions:

W I T N E S S E T H:

WHEREAS, the parties have experienced marital difficulties in the past, with the result that the Wife has instituted divorce proceedings against the Husband, same being Civil Action No. 90D-3089 in the Fourth Circuit Court for Davidson County, Tennessee; and

WHEREAS, it is the decision of the parties, insofar as they are able without the concurrence of the Court, to amicably settle their differences with respect to all property rights, support obligations and obligations for payment of debts, and to enter into a contract for the settlement of such rights and obligations, not only for the present, but for the future, it being their intention that such contract will be effected with respect to all of their property and other matters of concern.

NOW, THEREFORE, for and in consideration of the foregoing premises, and in consideration of the mutual covenants and agreements hereinafter contained, the parties do hereby agree as follows:

1. The Wife shall proceed to trial and obtain a divorce on the grounds of irreconcilable differences, and shall be restored to all the rights and privileges of an unmarried person.

2. The parties acknowledge that they have no minor children at this time, all of their children being over 18 years of age and out of high school.

3. The parties acknowledge that they are the joint owners of the marital residence located at 5773 Mt. View Road, Antioch, Davidson County, Tennessee 37013, which is currently being occupied solely by the Husband. The parties agree that they shall continue to own the marital residence as tenants in common following the entry of the Final Decree of Divorce. They further agree that the residence shall be immediately placed for sale at a mutually agreed upon listing price after consultation with a real estate agent to be selected through a mutual agreement of the parties' attorneys. The Husband shall continue to have the occupancy of the residence, and he agrees that he shall be responsible for all upkeep and maintenance on the home and responsible for all reasonable expenses necessary to prepare the home for sale. He shall further be responsible for the payment of all mortgage payments on the home (which includes payments for taxes and insurance), and utility services. The Husband shall cooperate with the real estate agent with regard to the showing of the home, and he will have it neat and clean when the home is shown. Both parties shall act reasonably with regard to the selling price so as to obtain the best possible price for the home. Upon the sale, after the payment of the outstanding mortgage and real estate commission and closing costs, the proceeds shall be divided equally between the parties, except as otherwise provided herein.

4. The parties acknowledge that they are the owners of five acres of unimproved real property located in Cannon County, Tennessee, which property is titled solely in the name of the Husband. The Wife agrees that the Husband shall receive all right, title and interest in and to said real property, free and clear of any claims from the Wife. The Husband shall assume the outstanding indebtedness owed thereon, and he shall

hold the Wife harmless from repayment thereof.

5. The Husband shall be awarded all right, title and interest in and to the 1986 Pontiac Grand Am automobile, and he shall assume the outstanding indebtedness owed thereon and hold the Wife harmless from repayment thereof. The Wife shall receive all right, title and interest in and to the 1986 300 GX and the 1987 Nissan pickup truck, and she shall assume any indebtedness owed on these vehicles, and hold the Husband harmless from repayment thereof.

6. With regard to the household items of furniture and furnishings of the parties, the Husband shall receive the following items: the three wheeler, the International riding lawnmower, his tools, lawn equipment (which shall remain at the residence until the home is sold), color console television, one-half of the portraits, one-half of the linens, two guns, and kitchen table and six chairs two rifles, and one pistol. All of the remaining items of household furniture and furnishings shall become the sole and exclusive property of the Wife, free of any claims from the Husband.

7. Each party shall retain ownership of their respective jewelry, clothing and wearing apparel.

8. The parties agree that the Wife shall receive all right, title and interest in and to her pension and profit sharing plan with the Castner Knott Company, and further, that the Wife shall receive one-half of the Husband's retirement account with Beaman Bottling Company, with the Wife's one-half interest being rolled over into a separate account for the Wife pursuant to a Qualified Domestic Relations Order which shall subsequently be entered in this cause following the entry of the Final Decree of Divorce.

9. Each party shall pay any indebtedness which they have incurred in their individual names since the separation of the parties, and they acknowledge that with the exception of the indebtedness owed on automobiles and the residence, they have no other joint indebtedness.

10. The Husband shall pay to the Wife's attorneys, Cheatham & Palermo, as a lump sum alimony in solido payment,

$2,500.00 toward the Wife's attorney's fees. The parties agree that this amount shall be paid to the Wife's attorneys, Cheatham & Palermo, from the Husband's share of the proceeds from the sale of the marital residence. Said $2,500.00 owed to the Wife's attorneys shall become a lien against the Husband's share of the proceeds from the sale of the marital residence, and shall be paid to the attorney at the closing.

11. The Husband shall be responsible for the payment of all Court costs incurred in this cause.

12. Whenever one party is required by the terms of this Agreement to assume responsibility for paying certain debts and/or indemnify and hold the other party harmless from any liability therefor, such obligation shall be deemed to be a support obligation under 11 U.S.C. 523(5) which is not dischargeable in bankruptcy as to the other party.

13. In the event a creditor of either party makes a claim against the other party, which is upheld by a Court of competent jurisdiction, to pay any debt for which that party is not responsible, either by contract or pursuant to the terms of this Agreement, the party against whom such claim is made shall be entitled to recover from the responsible party the amount of any payment he or she makes, including interest, and any expenses incurred in defending the creditor's claim, including reasonable attorney's fees.

14. In the event it becomes reasonably necessary for either party to institute legal proceedings to procure the enforcement of any provision of this Agreement, he or she shall also be entitled to a judgment for reasonable expenses, including attorney's fees, incurred in prosecuting the action.

15. It is understood and agreed between the parties that this Agreement shall be introduced in the proceedings now pending in the Fourth Circuit Court for Davidson County, Tennessee and submitted to the Court for ratification and incorporation into the Final Decree of Divorce between the parties.

16. It is understood and agreed between the parties that this Agreement is intended to be a final settlement of all property rights and support rights and obligations of the

respective parties hereto and shall constitute a discharge from all claims arising out of their marital relationship except as provided herein. Each party hereby waives and relinquishes to the other all rights or claims which each may have or hereafter acquire under the law of any jurisdiction with respect to the other's property, including without limitation, dower, curtesy, statutory allowance, homestead rights, right to take against the will of the other, inheritance, descent or distribution, or right to act as administrator or executor of the other's estate except as provided by the terms of this Agreement. This Agreement applies to all property now owned by Husband and Wife, individually or jointly, or any property that either of them may acquire in the future.

17. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, heirs and assigns.

18. The parties acknowledge that there are no assets owned by them, either jointly or individually, and that they have no interest in any assets, which are not reflected by the terms of this Agreement. The parties warrant and represent that they have made full disclosure to each other of all assets in which they have an interest.

19. It is understood and agreed between the parties that this Agreement is entered into without undue influence, fraud, coercion, or misrepresentation, or for any reason not herein stated. The provisions in this Agreement and their 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.

20. This Agreement contains the entire understanding of the parties. There are no representations, warranties or promises other than those expressly set forth herein.

21. In the event any provision of this Agreement shall be held invalid by a Court of competent jurisdiction, such invalid provision shall not affect the other provisions of this Agreement, said provisions being severable.

22. It is understood and agreed between the parties that, as part of the consideration for the execution of this Agreement, each party shall willingly execute and deliver any and all instruments necessary or required in order to implement the terms of this Agreement.

23. This Agreement may be altered, amended or cancelled only by instrument in writing signed by each of the parties, and this requirement cannot be waived by oral agreement.

24. The Husband and Wife acknowledge that to the best of their knowledge, they have no outstanding joint indebtedness other than that specifically set out herein. However, in the event that any other indebtedness exists, whoever incurred such indebtedness shall be responsible for its repayment. Each party covenants with the other that, from the date of the divorce, 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 payments shall be made will indemnify the other to the full extent of the amount paid, inclusive of interest and legal expenses.

25. The Wife shall be restored to her maiden name of FERGUSON.

Judy Carolyn Smithson
JUDY CAROLYN SMITHSON

Gary Nelson Smithson
GARY NELSON SMITHSON

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Pamela G. Rice, a Notary Public in and for the aforesaid County and State, JUDY CAROLYN SMITHSON, the within named bargainor, with whom I am personally acquainted, and who, after being first duly sworn, acknowledged that she executed the foregoing Agreement for the purposes contained therein.

Witness my hand in Nashville, Tennessee, this 15 day of August, 19 91.

Pamela G. Rice
NOTARY PUBLIC

My Comm. Expires: 9-25-93

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Personally appeared before me, Rose Palermo, a Notary Public in and for the aforesaid County and State, GARY NELSON SMITHSON, the within named bargainor, with whom I am personally acquainted, and who, after being first duly sworn, acknowledged that he executed the foregoing Agreement for the purposes contained therein.

Witness my hand in Nashville, Tennessee, this 15 day of August, 1991.

Rose Palermo
NOTARY PUBLIC

My Comm. Expires: 5-22-93

It is further **ORDERED AND ADJUDGED** that the last known addresses of the parties are as follows:

Judy Carolyn Smithson
11985 Central Pike
Mt. Juliet, Tennessee 37122

Gary Nelson Smithson
5773 Mt. View Road
Antioch, Tennessee 37013

It is further **ORDERED AND ADJUDGED** by the Court that Robert L. Jackson, Attorney for Mr. Smithson, shall be awarded a lien for the amount of his unpaid attorney fees against Mr. Smithson's proceeds from the sale of the house located at 5773 Mt. View Road, Antioch, Davidson County, Tennessee 37013, with said fees to be due and payable at the time of the sale of the aforementioned property.

It is further **ORDERED AND ADJUDGED** that the costs of this cause shall be taxed against Gary Nelson Smithson, for all of which execution may issue if necessary.

Entered this the 20th day of August, 1991.

Muriel Robinson Rice

MURIEL ROBINSON RICE, JUDGE

APPROVED FOR ENTRY:

ROBERT L. JACKSON & ASSOCIATES

Robert L. Jackson

BY: **ROBERT L. JACKSON**
P.R. #2486
214 Second Avenue, North
Suite 103
Nashville, Tennessee 37201
615/256-2602

CHEATHAM AND PALERMO

Rose Palermo

BY: **ROSE T. PALERMO**
P.R. 3330
43 Music Square West
Nashville, Tennessee 37203
615/244-4270

Mail

smithson3.fin

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IDENTIFICATION REFERENCE

Oct 2 3 50 PM '91

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* 20th *day of* AUGUST, *19* 91, *in Case Number* 90D-3089 *between* JUDY CAROLYN SMITHSON *Plaintiff, and* GARY NELSON SMITHSON *Defendant, as same remains of record in Book* 199B, *Page* 883 *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* 30th *day of* September *in the year one thousand nine hundred and* ninety-one *and in the* 216th *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By N Cartwright *D.C.*

Form #GR-117