201B/1121

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

ROY E. MCPHERSON,

Complainant,

vs. NO. 90D-377

MARY ANN MCPHERSON,

Counter-Complainant.

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FINAL DECREE OF DIVORCE

This cause came on to be heard on the 19th and 20th day of August, 1991, and September 24, 1991, before the Honorable Muriel Robinson Rice, Judge, upon the Original and Amended Complaint for Absolute Divorce filed by Mr. McPherson, Answer to Original and Amended Complaint and Counter-Complaint filed by Mrs. McPherson, Answer to Counter-Complaint filed by Mr. McPherson, testimony of the parties and their corroborative witnesses, submission to the Court of exhibits, statement of counsel in open Court, and from the entire record in this cause. From all of which the Court took this matter under advisement and rendered its Memorandum Opinion, dated October 29, 1991, which Memorandum of Opinion is incorporated herein verbatim as follows:

> "This cause came on for hearing on August 19, 1991 and other days thereafter until the matter was concluded on September 24, 1991 with additional evidence presented and final argument. The matter was heard upon the original complaint filed by Roy E. McPherson amendment thereto, answers filed in response by Mary Ann McPherson with a counter-complaint filed for divorce by the defendant and answered. The principals and other witnesses were presented by the parties' respective counsel. From all of which the Court is of the opinion and finds as follows:
>
> The Court finds having reviewed the evidence that a divorce should be awarded in this matter. If the Court accepts totally the testimony of the principals herein, neither party in this marriage is blameless. Further, neither party has offered witnesses sufficient to corroborate their own allegations of misconduct of the other. The Court in view of the proof presented cannot favor either party by choosing one in particular to be granted a divorce from the other. There is no sufficient corroboration as to misconduct offered by either side. This Court is concerned however that these parties can no longer live together. The Court hereby declares the parties to be divorced under T.C.A. 36-4-129. The parties hereto are therefore restored to all the rights and privileges of single persons.
>
> I.
>
> The Court feels it is to the best interest and welfare of minor daughter, to wit, Melissa Hope McPherson, age 10 that her custody be vested in the defendant and counter-complainant, Mary Ann McPherson, with all reasonable rights of visitation reserved to the original complainant, Roy E. McPherson. The Court will impose the regular alternation of holidays for visitations with the minor child as to both

parents and which schedule is the normal practice of this Court. The extended summer visitation will be set by agreement of the parties. However, in the event there is a dispute in this regard the Court will set the visitation by motion of either party.

II.

The father and original complainant, Roy E. McPherson shall pay to the mother and defendant, Mary Ann McPherson, the sum of $440.00 per month in keeping with the Federal Guidelines, as child support for the maintenance of the minor child until she reaches age 18 years and has completed her senior year in high school whichever occurs last or until she is otherwise emancipated.

The father shall provide hospitalization and medical insurance on said child and shall pay all medical claims and expenses including deductibles not paid by said insurance carrier. In addition the father shall pay all dental, orthodontia, eye examination, eye glasses or contact expenses the minor daughter may be in need of as medical necessities.

The mother shall be responsible for all prescription drugs not covered by insurance. In the event she purchases prescriptions for the child that are later reimbursed by Mr. McPherson's insurance carrier those amounts refunded shall be paid back to her.

IV.

The Court finds the wife's separate property to be as follows:

1.) Sapphire and Diamond Ring
2.) 1 Carat Wedding Ring
3.) 1/2 Carat Diamond Necklace
4.) Rocking Chair
5.) Inherited furniture from her Aunt Frances Richards (Exhibit # 1).
6.) Promissory Notes Receivable from Roy McPherson owing to Mrs. Mary McPherson and two of the children:
    - $33,000.00 - Mary McPherson
    - $44,000.00 - Melissa (held in trust by Mrs. McPherson)
    - $9,000.00 - Darren (held in trust by Mrs. McPherson)
7.) Clothing
8.) $50,000.00 placed in homeplace from her inheritance.

The Court finds the husband's separate property to be as follows:

1.) Clothing
2.) Coins
3. Any gifts from defendant.

V.

Insofar as division of the assets of this marital estate is concerned the Court makes the following division, after considering all the proof and weighing the evidence as to values of assets (greatly disputed as to real estate values), tax consequences if liquidated, liabilities, and feasibility of converting assets to cash and after considering the requirements of division considerations as set forth by statue T.C.A. 36-4-121:

The husband shall receive the following:

1.) The business known as McPherson Motor, Inc. - 100% of the stock owned by him. - Stipulated Value $250,000.00.
2.) CPS C Consumer Protection Service - Valued not ascertained at trial by proof - concluded to be of no marketable value.
3.) Car Lot/Garage
6005-6007 Charlotte Avenue
Nashville, Davidson County, Tennessee
Subject to mortgage, wife is held harmless thereon.
4.) Office Building
6003 Charlotte Avenue
Nashville, Davidson County, Tennessee
Subject to mortgage holding wife harmless thereon.
5.) 6002 Lenox Avenue
Nashville, Davidson County, Tennessee
Subject to mortgage holding wife harmless thereon.
6.) House and Lot
404 Gross Point Court
Subject to mortgage holding wife harmless thereon.
7.) Garage
318 Lellyett Avenue
Nashville, Davidson County, Tennessee
Subject to mortgage thereon holding wife harmless thereon.
8.) 5660 O'Brien
5662 O'Brien
5664 O'Brien
5652A O'Brien
5652B O'Brien
9.) Husband's IRA Account - $13,900.33
10.) Bank Account - Third National - #44410809
11.) Third National Joint Account
Savings - $800.00
12.) Building Account - $200.00
13.) Real Estate Account - $3,000.00
14.) Modern American Life Insurance
3300036790
15.) 1991 Tax Refund

The Wife shall receive the following:

1.) The homeplace located at 26 Balcaro Place, Burton Hills, Nashville, Tennessee
Stipulated Value - $250,000.00
However her contribution was $50,000.00 of her own money to pay mortgage balance reducing value to $200,000.00 without her $50,000.00 contribution.
2.) Rental Property
6001 Lenox Avenue
Nashville, Tennessee - Free and clear of any claim of the husband.
3.) The household furniture and furnishings located in the homeplace at 26 Balcaro Place, Nashville, Tennessee.
4.) The 1989 Toyota automobile
5.) Her IRA - $5,261.64
6.) Her bank accounts and those she holds as custodial accounts for the children which she shall continue to hold in that capacity.

VI.

The mortgage held by Third National Bank on the real

estate known as 6005-6007 Charlotte Avenue in the approximate amount of $399,000.00 shall be the responsibility of the husband and the wife shall be held harmless thereon. The payment thereon as it pertains to any debt division to the wife is hereby considered alimony and the payment made by the husband is considered necessary for her support and maintenance and non-dischargeable in bankruptcy.

VII.

The husband shall pay to the wife the sum of $1,000.00 per month as periodic alimony until her death or remarriage or the expiration of 6 years from the date of this Memorandum, whichever event occurs first.

The husband shall designate the sum of $250,000.00 of the $500,000.00 North American Company Term Life Insurance Policy to the wife as beneficiary until the above alimony obligation has ended.

VIII.

The husband shall pay to wife's attorney as further alimony a reasonable fee in the amount of $15,000.00 any remaining balance shall be the obligation of the wife. The costs of this cause shall be accessed against the husband he having the greater ability to pay.

The solicitor representing the wife shall prepare an Order accordingly.

This the 29th day of October, 1991.

Respectfully submitted,

/s/
MURIEL ROBINSON RICE, JUDGE

It is therefore **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 both parties are declared to be divorced pursuant to T.C.A. 36-4-129, and each is restored to all the rights and privileges of an unmarried person.

It is further **ORDERED AND ADJUDGED** by the Court that the care, custody and control of the minor daughter born to this union, namely, Melissa Hope McPherson, age 10, shall be awarded to the Counter-Complainant, Mary Ann McPherson, with reasonable visitation privileges reserved to Mr. McPherson. Mr. McPherson shall be entitled to alternate major holiday visitation with the minor child, including July 4, Labor Day, Thanksgiving, and Easter. The visitation will be from 6:00 p.m. the day before the holiday until 6:00 p.m. the evening of the holiday. Christmas holidays shall be divided equally. Mr. McPherson will be entitled to extended summer visitation by agreement of the parties. If they are unable to agree then the Court will set summer visitation upon Motion of either party.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall pay directly to Mrs. McPherson the sum of **FOUR HUNDRED FORTY ($440.00) DOLLARS** per month for the support and maintenance of the minor child until she reaches the age of 18 years or has completed her senior year in high school, whichever occurs last, or until she is otherwise emancipated. This sum of child support is in keeping with the Federal Guidelines.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall provide hospitalization and medical insurance for the minor child and shall pay all medical claims and expenses, including any deductibles, not covered by the insurance. In addition, Mr. McPherson shall pay all dental, orthodontia, eye examination, eye glasses or contact expenses the minor daughter may be in need of as medical necessities.

It is further **ORDERED AND ADJUDGED** by the Court that Mrs. McPherson shall be responsible for all prescription drugs not covered by insurance. In the event she purchases prescriptions for the child that are later reimbursed by Mr. McPherson's insurance carrier, those amounts refunded shall be paid back to Mrs. McPherson.

It is further **ORDERED AND ADJUDGED** by the Court that Mrs. McPherson shall be awarded as her separate property, the following items:

1.) Sapphire and Diamond Ring
2.) 1 Carat Wedding Ring
3.) 1/2 Carat Diamond Necklace
4.) Rocking Chair
5.) Inherited furniture from her Aunt Frances Richards (Exhibit # 1).
6.) Promissory Notes Receivable from Roy McPherson owing to Mrs. Mary McPherson and two of the children:
    - $33,000.00 - Mary McPherson
    - $44,000.00 - Melissa (held in trust by Mrs. McPherson)
    - $9,000.00 - Darren (held in trust by Mrs. McPherson)
7.) Clothing
8.) $50,000.00 placed in homeplace from her inheritance.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall be awarded as his separate property, free of any claim by Mrs. McPherson, the following items:

1.) Clothing
2.) Coins
3. Any gifts from defendant.

It is further **ORDERED AND ADJUDGED** by the Court that as a division

of the assets of the marital estate, Mr. McPherson shall be awarded the following property:

1. The business known as McPherson Motor, Inc. in which he owns 100% of the stock.

2. The business known as CPS Consumer Protection Service.

3. The Car Lot and Garage located at 6005-6007 **CHARLOTTE AVENUE**, Nashville, Davidson County, Tennessee, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

4. The office building located at 6003 **CHARLOTTE AVENUE**, Nashville, Davidson County, Tennessee, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

5. The property located at 6002 **LENOX AVENUE**, Nashville, Davidson County, Tennessee, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

6. The rental house and lot located at 404 **GROSS POINT COURT**, Nashville, Davidson County, Tennessee, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

7. The garage located at 318 **LELLYETT AVENUE**, Nashville, Davidson County, Tennessee, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

8. The rental properties known as 5660 **O'BRIEN**, 5662 **O'BRIEN**, 5664 **O'BRIEN**, 5652A **O'BRIEN**, and 5652B **O'BRIEN**, free of any interest by Mrs. McPherson, and he shall assume all responsibility for the mortgage owing thereon, and hold Mrs. McPherson harmless from any responsibility therefrom.

9. His Individual Retirement Account in the approximate sum of **THIRTEEN THOUSAND NINE HUNDRED DOLLARS AND THIRTY-THREE ($13,900.33)**

CENTS.

10. The Third National Bank account number 44410809.

11. The Third National Joint Savings account in the approximate sum of **EIGHT HUNDRED ($800.00) DOLLARS.**

12. The building bank account in the approximate sum of **TWO HUNDRED ($200.00) DOLLARS.**

13. The real estate bank account in the approximate sum of **THREE THOUSAND ($3,000.00) DOLLARS.**

14. The Modern American Life Insurance policy number #3300036790.

15. The 1991 Tax Refund, free of any claim by Mrs. McPherson.

It is further **ORDERED AND ADJUDGED** by the Court that as a division of the assets of the marital estate, Mrs. McPherson shall be awarded the following real property, and all of Mr. McPherson's interest in and to the following described property shall be divested from him and vested solely in Mrs. McPherson.

1. The homeplace located at **26 BALCARO PLACE**, Burton Hills, Nashville, Davidson County, Tennessee, and more specifically described as follows:

> Being Lot No. 9 on the Plat of Burton Hills Village of Foxview, Tract 5, a portion of Zone Lot II, of record in Book 6250, page 564, Register's Office for Davidson County, Tennessee, to which plat reference is hereby made for a more complete description of said lot.
>
> Being the same property conveyed to Roy E. McPherson and wife, Mary Ann McPherson, by Warranty Deed of record in Book 6777, page 689.

2. The rental property located at **6001 LENOX AVENUE**, Nashville, Davidson County, Tennessee, and more specifically described as follows:

> Being Tract No. 2 of the Paul Richardson property, division thereof recorded in Plat Book 5060, page 158, on the Resubdivision of a Tract of land belonging to Harold R. Richardson being a subdivision of the Cowden property described according to a survey by Charles Phillip Clinard surveyor dated May 1977, as follows:
>
> Beginning at an iron pin in the southerly margin of Lenox Avenue at the common corner of tracts 1 and 2; thence with the margin of said Avenue, North 85° East 291.31 feet to an iron pin at the beginning of a curve; thence around said curve southeasterly 39.95 feet to an iron pin in the westerly margin of Lellyet Street; thence with the margin of the same South 3° 27' East 206.52 feet to an iron pin at the beginning of a curve; thence around said curve southwesterly 34.25 feet to an iron pin the northerly margin of Neighborly Avenue; thence with the same South 75° 03' West 293.77 feet to an iron pin at the corner of Tracts 1 and 2; thence with the line between

said two tracts North 5° West 306.90 feet to the point of beginning.

Being the same property conveyed to Roy McPherson by Installment Deed of record in Book 5155, page 120, Register's office for Davidson County, Tennessee.

This is unimproved property known as 6001 Lenox Avenue, Nashville, Tennessee 37209.

The parties will execute quitclaim deeds if necessary.

3. All household furniture and furnishings located in the homeplace at 26 Balcaro Place, Nashville, Davidson County, Tennessee.

4. The sole and exclusive ownership of the 1989 Toyota automobile.

5. Her Individual Retirement Account, in the approximate sum of **FIVE THOUSAND TWO HUNDRED SIXTY-ONE DOLLARS AND SIXTY-FOUR ($5,261.64) CENTS.**

6. Her bank accounts and those she holds as custodial accounts for the children, and she shall continue to hold said accounts in the capacity of custodian.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall assume the mortgage held by Third National Bank on the real estate known as 6005-6007 Charlotte Avenue in the approximate amount of **THREE HUNDRED NINETY-NINE THOUSAND ($399,000.00) DOLLARS,** and he shall hold Mrs. McPherson harmless from any responsibility thereon. The payment thereon as it pertains to any debt division to Mrs. McPherson is hereby considered alimony and the payment made by Mr. McPherson is considered necessary for her support and maintenance and non-dischargeable in bankruptcy.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall pay to Mrs. McPherson the sum of **ONE THOUSAND ($1,000.00) DOLLARS,** per month, as periodic alimony, and said payments shall continue until her death or remarriage or the expiration of 6 years from October 29, 1991, whichever event occurs first. These payments shall commence on November 1, 1991 and be due and payable on the first day of each month.

It is further **ORDERED AND ADJUDGED** by the Court that Mr. McPherson shall designate the sum of $250,000.00 of the $500,000.00 North American Company Term Life Insurance Policy to Mrs. McPherson as beneficiary until the above alimony obligation has ended.

It is further **ORDERED AND ADJUDGED** by the Court that Robert L. Jackson and Associates shall be awarded a judgment for attorney fees against Mr. McPherson in the sum of **FIFTEEN THOUSAND ($15,000.00) DOLLARS**, which shall be an award of further alimony. Any remaining balance shall be the obligation of Mrs. McPherson.

It is further **ORDERED AND ADJUDGED** by the Court that the costs of this cause shall be accessed against Mr. McPherson, for all of which execution may issue.

Entered this the 13th day of ~~October~~ NOV, 1991.

MURIEL ROBINSON RICE, JUDGE

APPROVED FOR ENTRY:

ROBERT L. JACKSON & ASSOCIATES

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

mail

BY: DAVID W. GARRETT
P.R. #13248
ATTORNEY FOR MRS. McPHERSON
214 Second Avenue, North
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Nashville, Tennessee 37201
615/256-2602

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Decree has been furnished to Michael M. Castellarin, Attorney for Mr. McPherson, 95 White Bridge Road, Suite 509, Nashville, Tennessee 37205, this 5th day of November, 1991.

DAVID W. GARRETT

mcpherson1.fd

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IDENTIFICATION REFERENCE

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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* THIRTEENTH *day of* NOVEMBER, *19* 91, *in Case Number* 90 D 377 *between* ROY E. MCPHERSON *Plaintiff, and* MARY ANN MCPHERSON *Defendant, as same remains of record in Book* 201 B, *Page* 1121 *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* TWELETH *day of* FEBRUARY *in the year one thousand nine hundred and* NINETY-TWO *and in the* TWO HUNDRED AND SIXTEENTH *year of American Independence.*

GEORGE L. ROOKER, *Clerk,*

By Sara P. Hightower D.C.

Form #GR-117