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RICHARD R. ROOKER, CLERK

D.C.

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

JOAN TERESA BERGSMITH,

Plaintiff,

VS.

RONALD LEE BERGSMITH,

Defendant.

DOCKET NO. 95D-265

BOOK 10312 PG 547

FINAL DECREE OF DIVORCE

This cause came on to be heard on August 2, 1995, before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon the Complaint for Divorce of the Wife, Joan Theresa Bergsmith; Answer and Counterclaim of the Husband, Ronald Lee Bergsmith; testimony of the parties heard in open Court; statements of counsel; exhibits introduced at trial, and the entire record in this cause, from all of which the Court makes the following findings and conclusions of law:

The Court finds that based on the proof and admissions of the Defendant, the Court will grant a divorce under T.C.A. §36-4-129 with the findings that both parties have been at fault causing the dissolution of this marriage. However, the Husband has been the party with the greater amount of fault and the Wife the party with the lesser degree of fault; therefore, the Wife shall be awarded the divorce under T.C.A. §36-4-129.

It is therefore, **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife, Joan Theresa Bergsmith, shall be granted an absolute divorce from the Husband, Ronald Lee Bergsmith, and both parties are restored to all the rights and privileges of single persons. It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband's counterclaim for divorce shall be dismissed.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the custody of the parties' minor children, Kevin Ronald Bergsmith, age 7, and David Robert Bergsmith, age 4, shall be awarded to the Wife, Joan Theresa Bergsmith; however, the Court finds both parties to be fit and proper persons to have custody of said children.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall have visitation with the minor children every

other weekend from 6:00 p.m. on Friday until 6:00 p.m. on Sunday. The Husband shall also have visitation with the minor children from 5:00 p.m. until 8:00 p.m. every Tuesday. The Husband shall pick up and deliver the children during his scheduled visitation. Said visitation shall begin Tuesday, August 8, 1995. The Husband shall have extended summer visitation with the minor children during the month of July. During the month of July the Husband's child support obligation to the Wife shall be reduced by one-half (1/2). In addition, during the month of July, the Wife shall have visitation with the minor children during the middle weekend of the month from 6:00 p.m. on Friday until 6:00 p.m. on Sunday. The Wife shall pick up and deliver the children during her visitation. The parties shall alternate major holidays such as New Year's Day, Easter Sunday, Memorial Day, July 4th, and Labor Day. On those holidays, the holiday shall begin at 6:00 p.m. on the eve of the holiday and end at 8:00 p.m. on the day of the holiday. In the event one of the above holidays occurs on a weekend of visitation, the holiday takes precedence over the regular weekend visitation. During the Thanksgiving holidays, each of the parties shall alternate year to year having the children from 6:00 p.m. on the day before Thanksgiving until 6:00 p.m. on the Sunday following Thanksgiving. During the Christmas holidays, each of the parties shall alternate year to year having the children for one week before Christmas until noon on Christmas Eve, at which time the parties shall exchange the children at noon on Christmas Eve and the children will be together with the other parent the remainder of Christmas Eve through Christmas Day and the week thereafter. Any deviations from the ordered visitation must be done by an agreed order approved by the Court. During the children's spring break, each of the parties shall alternate year to year having the children for the entire spring break. The Husband shall have the children on Father's Day from 8:00 a.m until 6:00 p.m. On Mother's Day, the Wife shall have the children from 8:00 a.m. to 6:00 p.m. If either of these holidays occurs during a weekend of scheduled visitation, the holiday shall take precedence over the remainder of the weekend of the visitation.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that both parties are permanently enjoined and restrained from attempting to alienate the affection of the children from each other.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband, Ronald Lee Bergsmith, shall pay to the Wife, Joan Theresa Bergsmith, the sum of One Thousand Fifty-Six Dollars ($1,056.00) per month as child support for the parties' minor children, Kevin Ronald Bergsmith (DOB 01/19/88) and David Robert Bergsmith (DOB 01/08/91), until each child reaches the age of eighteen (18). If a child is still in high school at the time the child reaches age eighteen (18), the Husband will continue to pay child support until the child graduates from high school or the class of which the child is a member graduates, whichever event first occurs. Said payments shall begin September 1, 1995, and shall be due on the 1st day of each month thereafter during the above period of time.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that as additional child support the Husband shall pay thirty-two (32%) percent of all bonuses he receives to the Wife within thirty (30) days of receipt by him, and he shall inform Wife of the amount of the bonus so that a percentage can be correctly calculated.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that as additional child support the Husband shall furnish medical and hospitalization insurance on the parties' children and shall pay all medical expenses not covered by insurance, including dental, eye care, orthodontia, glasses or contacts during their minority. The Wife shall be responsible for paying for the children's prescription expenses and submitting the bills for reimbursement to the Husband's insurance company. The Wife shall receive any reimbursements due on the prescriptions from Husband's insurance provider.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife shall be allowed to participate in the COBRA conversion through the Husband's employer, but if she elects to participate she will be responsible for the premium.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall receive the IRA in the approximate amount of Twenty-Two Thousand Dollars ($22,000.00) and the 401(k) plan having a value of approximately Four Thousand Six Hundred Dollars ($4,600.00) in their entirety.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the two money market accounts and the savings bonds shall be divided equally between the parties.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall remain the trustee for the children's accounts. No disposition shall be made of these accounts unless the parties agree or unless ordered by the Court.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife shall receive the One Thousand Three Hundred Dollar ($1,300.00) income tax refund. She is to apply the income tax refund to the balance owed on the Discover card, and she shall receive the excess of the refund. If the income tax refund is not sufficient to pay the entire balance owed on the Discover card, the Wife is responsible for any remaining balance.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that neither of the parties shall make any additional charges on the credit of the other party.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife is awarded the parties' residence located at 3436 Shakertown Road, Antioch, Tennessee subject to the first mortgage and the Husband shall be divested of all the right, title and interest in said property and Wife shall be vested with said property, which is fully described as follows:

BEING Lot No. 444 on the plan of "The Country," Section Nine, of record in Plat Book 6900, Page 285, Register's Office for Davidson County, Tennessee, to which plat reference is hereby made for a more complete description.

BEING the same property conveyed to Baird R. Faulkner and Wife, Jane J. Faulkner, by deed from Phillip Builders, Inc., of record in Book 8475, Page 654, Register's Office for said County, and being the same property conveyed to Ronald L. Bergsmith and Wife, Joan T. Bergsmith, by deed from Baird R. Faulkner and Wife, Jane J. Faulkner, of record in Book 8956, Page 671, Register's Office for Davidson County, Tennessee.

The Wife shall be responsible for the mortgage indebtedness owing on said residence, and shall hold the Husband harmless as to same. The Wife shall pay all mortgage payments in a timely manner; and in the event the house note becomes three (3) months in arrears and foreclosure on the residence is imminent, the residence will be sold and the Wife shall receive any net equity derived from the sale.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that each of the parties shall receive the furniture and the furnishings they brought into the marriage or have received from their families during the marriage, and shall divide the remaining furniture and furnishings according to the agreed division made by the parties during the trial.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that each of the parties shall receive their personal clothing and jewelry.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife shall receive the washer and dryer and the Husband shall receive the camcorder.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife shall receive her automobile, 1992 Pontiac, and the Husband shall receive his automobile, 1990 Chevrolet Blazer.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall receive his retirement account at Heil-Quaker and any retirement due him in 1996 from Whirlpool, free and clear from any claim by the Wife.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall maintain his life insurance currently in effect with his Wife as the beneficiary until the youngest child reaches age eighteen (18) or graduates from high school with their regular high school class or is no longer in the Wife's custody. At such time, the Husband's obligation to maintain said life insurance shall terminate.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall pay to the Wife, as rehabilitative alimony, the sum of Seven Hundred and Fifty Dollars ($750.00) per month for a

period of three (3) years. Said payments shall begin on September 1, 1995, and shall be due on the 1st day of each month thereafter during the above period of time.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Wife shall be responsible for the payment of any debt presently owed to Dr. F.T. Horton, Jr. The bill shall be submitted the Husband's insurance carrier, and the Wife shall receive any insurance reimbursement.

It is further **ORDERED, ADJUDGED AND DECREED** that the Husband shall submit the Wife's orthodontia expenses for payment through his Flex account and Wife shall receive any payments paid through the Flex account; and any balance left over that's not covered by any insurance, each party shall bear one-half (1/2) of said amount.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall pay Wife's attorney, James L. Weatherly, Jr., the sum of One Thousand Five Hundred Dollars ($1,500.00) toward his attorney's fees. The Wife shall be responsible for the balance of any fees owed to her attorney.

It is further **ORDERED, ADJUDGED AND DECREED** by the Court that the Husband shall pay the court costs associated with this cause.

The current address of the Wife is 3426 Shakertown Road, Antioch, Tennessee, and the current address of the Husband is 3300 Oak Trees Court, Antioch, Tennessee 37013.

ENTERED this the 17th day of August, 1995.

JUDGE MURIEL ROBINSON
JUDGE OF THE FOURTH CIRCUIT COURT

SUBMITTED FOR ENTRY:

RAY & HOUSCH

BOOK 10312 PG 553

BY: _____

PAUL T. HOUSCH, ESQ #11538
211 Third Avenue North
P.O. Box 198288
Nashville, TN 37219
(615) 256-2111

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and exact copy of the foregoing has been forwarded, postage prepaid, to Mr. James L. Weatherly, Jr., Hollins, Wagster, & Yarbrough, P.C., Third National Financial Center, 22nd Floor, 424 Church Street, Nashville, TN 37219 on this the 30 day August, 1995.

_____
PAUL T. HOUSCH, ESQ #11538

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STATE OF TENNESSEE

I, RICHARD R. 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 17 day of AUGUST , 19 95 , in the Case Number 95D265 between BERGSMITH, JOAN THERESA Plaintiff, and BERGSMITH, RONALD LEE Defendant, as same remains of record in Book 247A , Page 698 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 06 day of JANUARY in the year one thousand nine hundred and ninety-seven and in the 221st year of American Independence.

RICHARD R. ROOKER, Clerk,

By CD Clerk
Deputy Clerk

SEAL

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IDENTIFICATION REFERENCE

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DAVIDSON COUNTY, TN.

PICK-UP