IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

97 FEB 12 PM 3:49

RICHARD R. ROOKER, CLERK

D.C.

| | | |
|---|---|---|
| **CHRISTINA BRINKER CAPTINO,** | ) | |
| | ) | |
| **Plaintiff/Wife** | ) | |
| | ) | 960-2667 |
| **VS.** | ) | **NO. ~~97D-2667~~** |
| | ) | 86-8-A |
| **MARK LOUIS CAPTINO,** | ) | 73 CO |
| | ) | |
| **Defendant/Husband** | ) | |

BOOK 10372 PG 123

## FINAL DECREE OF DIVORCE

This cause was granted on the 12th day of February, 1997, by Honorable Marietta Shipley, Judge, upon the Complaint for Divorce of Plaintiff, CHRISTINA BRINKLEY CAPTINO (hereafter "Wife") heretofore filed against Defendant, MARK LOUIS CAPTINO (hereafter "Husband"); and, it appearing to the Court from said Complaint, and the entire record in this cause, that the parties have experienced irreconcilable differences in their marriage, thereby entitling Wife to an Absolute Divorce from Husband on said ground; and, it further appearing that Husband and Wife have executed a written, notarized Marital Dissolution Agreement, which Agreement the Court affirmatively finds does adequately and sufficiently provide for the care, custody and support of the minor child of the parties, and an equitable settlement of all property rights between the parties, and that said Agreement should be incorporated into and made a part of this Final Decree of Divorce.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Wife, CHRISTINA BRINKLEY CAPTINO, shall be and hereby is awarded an Absolute Divorce from Husband, MARK LOUIS CAPTINO, on the ground of irreconcilable differences, and the bonds of matrimony heretofore existing between the parties are forever and perpetually dissolved.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the written, notarized Marital Dissolution Agreement dated January 27, 1997, shall be, and the same hereby is, incorporated into and made a part of this Final Decree of Divorce, in words and figures, as follows:

3579 03/07 0101 03CHECK 48-00

FILED

97 JAN 31 PM 12:45

RICHARD R. ROOKER, CLERK

B. Kahn

# MARITAL DISSOLUTION AGREEMENT

**THIS AGREEMENT** entered into on the dates set forth below the parties signatures, by and between CHRISTINA BRINKER CAPTINO hereinafter referred to as "Wife", and MARK LOUIS CAPTINO hereinafter referred to as "Husband":

BOOK 10372 PG 124

## WITNESSETH

**WHEREAS,** Wife has filed a Complaint for Divorce in the Circuit Court for Davidson County, Tennessee, which shall be assigned Docket No. 96D-2667, wherein Wife shall seek an absolute divorce from Husband on the ground of irreconcilable differences; and

**WHEREAS,** the parties desire to agree upon and fix their rights and duties regarding their respective estates and any and all matters concerning their respective rights and duties by reason of the marital relationship, and for the custody, support and visitation of the parties' minor child; and,

**WHEREAS,** Husband acknowledges that a divorce proceeding has been filed against him in the State of Tennessee; and that he is a bona fide Tennessee resident as of the date he signs this Agreement; and that this Agreement, when notarized, shall also serve as statutory service of process upon him in lieu of personal service; and Husband specifically waives further service of process and waives his right to file an Answer or other responsive pleading to the Complaint in this cause; and

**NOW, THEREFORE,** in settlement, adjustment and compromise of all property rights, and all matters arising by reason of the marital relationship, and in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree and covenant as follows:

1. CUSTODY AND VISITATION: Husband and Wife agree that both parties are fit and proper persons to have custody of the parties minor child, Jessica Marie Captino (DOB 3/18/80), that they shall have joint custody of the minor child, with Wife having primary residential custody of said minor child. The parties further agree that Husband shall have reasonable visitation privileges with said minor child at such times as the parties mutually agree.

2. **CHILD SUPPORT**: Husband shall pay directly to Wife, for the support and maintenance of the minor child of the parties, the sum of $1,500.00 per month on the 15th of each month commencing on September 15, 1996, and continuing until August 15, 1998, at which time, the parties' minor child shall have attained her eighteenth (18th) birthday, and at which time, the parties' minor child's regularly scheduled class shall have graduated from high school. Said child support is in compliance with TDHS Title IV Guidelines.



3. **REAL PROPERTY**:

(A) (1) The parties acknowledge that they presently own approximately 46 acres of real property located on Big Springs Road in Lebanon, Wilson County, Tennessee, which is more particularly described as follows:

> Being Tract No. 14 of BIG SPRINGS ACRES, as shown on the plat made by Crockett Surveying, 427 Park Avenue, Lebanon, TN 37087, dated December 14, 1995, and of record in Plat Book 20, page 767, Register's Office for Wilson County, Tennessee, to which plat reference is hereby made for a more complete description of said tract.
>
> Being part of the same property conveyed to NORMAN DALE JENNINGS, III and wife, BETSY EVINS JENNINGS by deed from Harold E. Stanford an wife, Sara D. Stanford, dated October 1, 1992, and of record in Deed Book 429, page 262, Register's Office for Wilson County, Tennessee, and by Quitclaim deed from Danny Evins, dated May 25, 1993, and of record in Deed book 432, page 385, said Register's Office.

(2) As to said real estate, the parties agree that all of Husband's right, title and interest in and to said real estate shall be and is divested out of Husband, and vested in Wife in fee simple, subject to the existing first mortgage indebtedness due and owing to Union Planters or its assignees. Wife agrees to assume said mortgage indebtedness and to indemnify and hold Husband harmless from any liability on said indebtednesses. Any escrow accounts and insurance policies currently existing on or associated with the said property shall be and are assigned and transferred to Wife. The Wife shall refinance the mortgage indebtedness secured by the above-referenced property within one year following entry of a Final Decree of Divorce procuring a release of all of Husband's obligations on any indebtedness secured by the said property.

(3) Husband agrees to execute and deliver to Wife a Quitclaim Deed respecting said premises, not later than the date of entry of the Final Decree of Divorce in this cause. Wife shall be responsible for the costs of preparing and recording said Quitclaim Deed.

(4) In the event that Wife fails to refinance said 46 acres within the time provided above, Wife unilaterally decides to sell said property, or if prior to refinancing, any installment on the mortgage indebtedness to Union Planters becomes more than thirty (30) days in arrears, whichever first occurs, then said property shall immediately be sold. The

parties may by mutual agreement determine a method for sale or in the absence of such agreement, a certified appraisal shall be obtained from an appraiser selected by Wife and a broker shall be selected by Wife to list said property at the appraised value with the costs of said appraiser's fee to be equally divided between the parties.

(5) Upon sale of the said 46 acres, the net proceeds, shall be distributed in the following order: 1) Balance due to The Associates on the parties' household furnishings; 2) reimbursement to Husband of the following: any mortgage payments made by him on the mortgage securing the residence or the 46 acres, and any installment payments made by Husband to The Associates or to Nissan Motor Credit; and 3) balance to Wife.

(6) The parties agree that until such time as Wife refinances the existing indebtednesses on the above described real property or until such time as Wife sells said property, whichever event shall first occur, Husband retains a lien on said property for the purpose of insuring the sale of said property and securing all obligations and disbursements required by paragraph 3(A)(4) & (5) above. Upon said sale, Husband shall be responsible for preparation and filing of a Release of Lien.

(B) (1) The parties further acknowledge that they own a residence known as 2009 Strombury Drive, Hermitage, Davidson County, Tennessee 37076, which is more particularly described as follows:

> LAND in Davidson County, Tennessee, being Lot No. 461 on the Plan of Camden Woods, Phase III-B, as of record in Book 7900, Page 660, Register's Office for said County, to which said plan reference is hereby made for a more complete and accurate legal description thereof.
>
> BEING the same property conveyed to Richard A. Keller and wife, Melanie K. Keller, by Deed from Phillips Builders, Inc., of record in Book 9782, Page 706, Register's Office for Davidson County, Tennessee.
>
> THIS conveyance is subject to Declaration of Covenants, Conditions and Restrictions, of record in Book 7620, Page 561, as amended in Book 7657, Page 580, and amendment #2 in Book 7675, Page 926, and second supplement in Book 9231, Page 737, said Register's Office; easements and setback lines as set forth on the above plan of record; and taxes for the current year which have been prorated and assumed by the Grantee(s) herein.

(2) As to said residence, the parties agree that all of Husband's right, title and interest in and to said real estate shall be and is divested out of Husband, and vested in Wife in fee simple, subject to the existing first mortgage indebtedness due and owing to North American Mortgage Company or its assignees. Wife agrees to assume said mortgage indebtedness and to indemnify and hold Husband harmless from any liability on said indebtednesses. Any escrow accounts and insurance policies currently existing on or associated with the said property shall be and are assigned and transferred to Wife. The Wife shall refinance the mortgage indebtedness secured by the above-referenced property



RECORDED
DEC 12 1997

within one year following entry of a Final Decree of Divorce procuring a release of all of Husband's obligations on any indebtedness secured by the said property.

(3) Husband agrees that he shall remove himself and his personal property, as itemized below, from said residence, within 45 days following the signing of this Agreement, after which time, Wife shall have sole and exclusive possession of said property.

(4) Husband agrees to execute and deliver to Wife a Quitclaim Deed respecting said residence, not later than the date of entry of the Final Decree of Divorce in this cause. Wife shall be responsible for the costs of preparing and recording said Quitclaim Deed.

(5) In the event that Wife fails to refinance said residence within the time provided above, Wife unilaterally decides to sell said property, or if prior to refinancing, any installment on the mortgage indebtedness to North American Mortgage Company becomes more than thirty (30) days in arrears, whichever first occurs, then said property shall immediately be sold. The parties may by mutual agreement determine a method for sale or in the absence of such agreement, a certified appraisal shall be obtained from an appraiser selected by Wife and a broker shall be selected by Wife to list said property at the appraised value with the costs of said appraiser's fee to be equally divided between the parties.

(6) Upon sale of the said residence, the net proceeds, shall be distributed in the following order: 1) Balance due to The Associates on the parties' household furnishings and 2) reimbursement to Husband of the following: any mortgage payments made by him on the mortgage securing the residence or the 46 acres, and any installment payments made by Husband to The Associates or to Nissan Motor Credit; and 3) balance to Wife.

(7) The parties agree that until such time as Wife refinances the existing indebtednesses on the above described real property or until such time as Wife sells said property, whichever event shall first occur, Husband retains a lien on said property for the purpose of insuring the sale of said property and securing all obligations and disbursements required by paragraph 3(B)(5) & (6) above. Upon said sale, Husband shall be responsible for preparation and filing of a Release of Lien.

(C) The parties agree that Husband shall be entitled to the interest deduction for the first eight (8) months of 1996 on the residence and the 46 acres, and the property tax deduction for all of 1996, for federal income tax purposes.

4. MEDICAL\LIFE INSURANCE: (A) Husband shall maintain medical and hospitalization insurance for the benefit of the parties' minor child until such time as the parties' minor child attains the age of eighteen (18) years or graduates from high school with her regularly scheduled class, whichever event shall last occur.



RY 12 '997

(B) Wife shall be solely responsible for and shall hold harmless and indemnify Husband for any and all deductibles and/or uninsured medical and hospitalization expenses, incurred for the benefit of the parties' minor child not otherwise covered by said insurance plan.

(C) Husband shall maintain the life insurance policy with First Colony Life Insurance insuring his life in the face amount of $250,000.00 with the parties' minor child named as beneficiary, until such time as the parties' minor child shall have attained the age of eighteen (18) years or shall have graduated from high school with her regularly scheduled class, whichever event shall last occur. Husband shall be solely responsible for the premium associated with said insurance.

(D) Wife shall maintain the life insurance policy with First Colony Life Insurance insuring her life in the face amount of $100,000.00 with the parties' minor child named as beneficiary, until such time as the parties' minor child shall have attained the age of eighteen (18) years or shall have graduated from high school with her regularly scheduled class, whichever event shall last occur. Wife shall be solely responsible for the premium associated with said insurance.

5. VEHICLES: (A) Wife shall be and is vested with sole right, title and interest in and to the 1990 Oldsmobile, Cutlass Supreme automobile, which the parties agree will be used by the parties' minor child, and Husband shall be and is divested of any right, title or interest in and to said vehicle. Wife shall be and is solely responsible for all insurance premiums and maintenance expenses associated with said vehicle.

(B) Wife shall be and is vested with sole right, title and interest in and to the 1994 Nissan Pathfinder automobile, and Husband shall be and is divested of any right, title or interest in and to said vehicle. Wife shall be and is solely responsible for and shall hold harmless and indemnify Husband for the lease payments due and owing to Nissan Motor Credit in the amount of $384.00 per month, as well as all insurance premiums and maintenance expenses attributable to said vehicle.

6. PERSONAL PROPERTY: Husband shall be divested of any right, title, or interest and Wife shall be vested with sole right, title and interest in and to all of the personal property located in the marital residence located at 2009 Strombury Drive, Hermitage, Tennessee, except for those items listed below, in and to which, Husband shall be and is vested with sole right, title, and interest and Wife shall be divested of any right, title, or interest:

1. Husband bedroom suit;
2. Antique Curio Cabinet;
3. Husband's Magnavox Television;
4. Husband's sporting goods equipment; and,

5. Husband's clothes, jewelry, and personal effects BOOK 10372 PG 129

7. TAX EXEMPT STATUS: This Agreement is the transfer of appreciated property between the spouses in connection with their divorce. It is not a sale or exchange or other disposition of property, but is an equitable division of property by co-owners.

8. DEBTS: (A) Except as set forth in Subparagraph (b) below and/or otherwise in this Agreement, each party shall be solely responsible for any and all indebtedness which appear primarily in his/her respective names; and, from and after the date of this agreement, neither party shall incur any expense for which the other party can be held liable.

(B) The parties agree that there is an indebtedness due and owing to The Associates in the approximate amount of $319.00 per month. Wife agrees to assume and to be solely responsible for said indebtedness and she shall hold harmless and indemnify Husband for the remaining balance of said indebtedness.

9. BANK ACCOUNTS/PENSIONS: (A) Husband shall be divested and Wife shall be vested with sole right, title, and interest in and to the joint checking and savings accounts at Union Planter's Bank.

(B) Each party shall be vested with sole right, title, and interest in and to any and all pension/retirement/profit sharing/401K plans as may exist through his/her individual employers (whether past, present, or future).

10. The parties agree that Husband shall have the right to claim the parties' minor child as a dependent for Federal Income Tax purposes for the years of 1996 through 1998.

11. Husband and Wife each agree to execute any documents or instruments which are, or may become, necessary to implement the terms and intents of this Agreement.

12. Husband and Wife each acknowledge that the provisions contained in this Agreement are fair, adequate, and equitable, and that this Agreement makes adequate and satisfactory provision for the minor child of the marriage, and each party accepts said terms in full settlement of all claims and demands arising out of the marriage relationship. Hereafter, neither Husband nor Wife shall have any claim against the other for division of property, alimony, attorney's fees, or claims made by virtue of the laws of descent and distribution. It is further understood and agreed by and between Husband and Wife that this Agreement is entered into without any undue influence, fraud, coercion, or misrepresentation, or for any reason not herein stated. Further, this Agreement is the entire



T RY 12 997

Agreement between the parties, and each acknowledges receipt of a copy of this Agreement.

13. The parties acknowledge that Attorney John P. Brown, III has represented Wife and that Attorney Mike Ferrell has represented Husband in the negotiations surrounding the preparation of this instrument; and, that both parties understand and agree with the contents of said Agreement. Both parties understand and acknowledge that they have been advised to seek independent tax advise regarding the tax consequences, if any, arising out of this Agreement.

14. Each shall be solely responsible for their respective attorney's fees and Wife shall be responsible for all Court costs associated with this cause, for all of which let execution issue, if necessary.

15. With respect to each party's responsibility for the payment of certain debts and liabilities, and their obligations to hold the other harmless for the payment thereof, the parties understand and agree that their obligations are non-dischargeable debts under Section 523(a)(5) of the Bankruptcy Reform Act of 1978 (or any corresponding provision in any other bankruptcy law), these obligations being part of the final financial support settlement for both parties. These financial obligations on the part of both parties are not a part of the property settlement. The division of the property is set forth elsewhere in the Marital Dissolution Agreement.

16. The parties agree that, if it becomes necessary for either party to initiate litigation to enforce this Agreement, or any provision thereof, the prevailing party shall receive from the losing party all expenses of any such action, including court costs and reasonable attorney's fees.

17. This Agreement shall be submitted to the Court and, if approved, shall be incorporated into any Final Decree of divorce granted to the Wife on the ground of irreconcilable differences, with the understanding that Husband and Wife shall be bound thereby, but if disapproved shall be of no force and effect.

18. The parties agree and acknowledge that Nashville, Davidson County, Tennessee is the proper jurisdiction and venue for this action; and, by their signatures below, each party waives personal service of process of a Complaint for Divorce.

19. Upon the entry of the Final Decree of Divorce in this cause, any attorney of record shall be released from any further representation of his/her respective client, and shall no longer be held as surety for subsequent court costs.

20. The parties affirmatively acknowledge that no action by the parties will be effective to reduce child support after the date of each payment and they understand that court approval must be obtained before child support can be reduced or prorated unless such payments are automatically reduced or terminated under the terms of this Agreement.

**IN WITNESS WHEREOF,** each party has executed this Agreement on the date indicated directly beneath their respective names.

**CHRISTINA BRINKER CAPTINO**
"Wife"

DATED: 1-27-97

**MARK LOUIS CAPTINO**
"Husband"

DATED: 1-16-97

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

On this the 24th day of January, 1997, before me, the undersigned Notary Public, in and for said County and State, appeared the within named, **CHRISTINA BRINKER CAPTINO**, with whom I am personally acquainted (or who proved to me on the basis of satisfactory evidence), stating that she has read the aforestated Marital Dissolution Agreement and has executed same for the purposes contained therein.

Lori D. Lennon
NOTARY PUBLIC

My Commission Expires: 9-18-99

* * * * *

STATE OF Alabama )
COUNTY OF Houston )

On this the 16 day of January, 1997, before me, the undersigned Notary Public, in and for said County and State, appeared the within named, **MARK LOUIS CAPTINO**, with whom I am personally acquainted (or who proved to me on the basis of satisfactory evidence), stating that he has read the aforestated Marital Dissolution Agreement and has executed same for the purposes contained therein.

Donna L. Hallman
NOTARY PUBLIC

My Commission Expires: 6-17-2000

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that in the event the obligor parent is thirty (30) days delinquent in support as set out above, and upon the obligee parent making written application, the Clerk of the Court will issue an immediate wage assignment to the obligor's employer as provided by T.C.A. § 36-5-501. Upon application being made, the Clerk will immediately give advance notice of this assignment to the obligor parent.

The addresses of the parties are:

| | |
|---|---|
| CHRISTINA BRINKLEY CAPTINO<br>2009 Strombury Drive<br>Hermitage, TN 37076 | MARK LOUIS CAPTINO<br>10 Trillium Cir., Apt. 1905<br>Dothan, Ala. 36301 |

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that unless specifically ordered by the Court, such support shall not be reduced or prorated, nor shall custody or visitation be modified without the prior express approval of the Court.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that all Court costs associated with this cause shall be taxed to Wife, for which let execution issue, if necessary.

**ENTERED** this 12th day of February, 1997.

Marietta M. Shipley

**JUDGE**

**APPROVED FOR ENTRY:**

John P. Brown III

**JOHN P. BROWN, III (BPR #16003)**
Attorney for Plaintiff/Wife
4207 Lebanon Road, Suite 200
Hermitage, TN 37076
PH: (615) 883-4998

97 MAR -7 AM 8:36
FELIX A. WILSON, REGISTER
DAVIDSON COUNTY, TN.

0279715
IDENTIF. & REFERENCE

## CERTIFICATE OF SERVICE

I, the undersigned hereby certify that a true and exact copy of the foregoing Final Decree of Divorce has been sent by U.S. Mail, postage prepaid to Michael Ferrell, Attorney for Defendant/Husband at, 3125 N. Mt. Juliet Road, Mt. Juliet, Tn 37122, this the 29th day of January, 1997.

John P. Brown III

**JOHN P. BROWN, III**

BOOK 10372 PG 134

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 SECOND Circuit Court for Davidson County, Tennessee, on the 12 day of FEBRUARY , 19 97 , in the Case Number 96D2667 between CAPTINO, CHRISTINA BRINKER Plaintiff, and CAPTINO, MARK LOUIS Defendant, as same remains of record in Book 167C , Page 1748 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 05 day of MARCH in the year one thousand nine hundred and ninety-seven and in the 221st year of American Independence.

SEAL

**RICHARD R. ROOKER,** Clerk,

By C.A. Cullom
Deputy Clerk