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IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

JAMES DANIEL MCCAIN,

Plaintiff,

VS.

CINDY LYNN MCCAIN,

Defendant.

NO. 96D-595 B. Murray D.C.

85-07-129

FINAL DECREE

BOOK 10536 PG 423

This cause came on to be heard on the 11th day of December, 1996, before the Honorable Marietta Shipley, Judge, upon the original and Amended Complaints for Absolute Divorce filed by the Plaintiff, James Daniel McCain, hereinafter referred to as "Husband"; Answer and Counter-Complaint filed by the Defendant, Cindy Lynn McCain, hereinafter referred to as "Wife"; testimony of the parties; submission of Exhibits; argument of counsel; statements of the Court; and the entire record in this cause, from all of which the Court is of the opinion and finds as follows: It is therefore:

ORDERED, ADJUDGED AND DECREED that by stipulation between the parties pursuant to Tennessee Code Annotated §36-4-129, the Court shall declare the parties divorced, one from the other. As such, each party is hereby restored to all the rights and privileges of an unmarried person, and the bonds of matrimony heretofore subsisting between the parties are hereby and forever perpetually dissolved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that these parties are the parents of two minor children, namely, Megan Taylor McCain, who is approximately age six (6) years, and Daniel Cole McCain, who is approximately age three (3) years. Custody of the parties' minor children shall be awarded to the Wife, with standard visitation set forth herein infra to the Husband. The Husband shall, however, pursuant to Tennessee Code Annotated §36-6-103, be allowed to have copies of the minor children's medical records, shall be consulted on nonemergency medical decisions affecting the minor children, and shall be notified as soon as possible thereafter in the event of emergency involving the minor children.

The Husband shall be allowed to attend PTA meetings, parent/teacher conferences, shall have the right to consult with the minor children's teachers, and shall be provided copies of the minor children's academic records, progress reports, and report cards pursuant to Tennessee Code Annotated §36-6-104. The Husband shall further be allowed to have copies, at his expense, of the minor children's school and athletic event pictures and the Wife shall give the Husband reasonable notice of when these pictures are taken and obtained so that he can purchase copies.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall have visitation with the minor children every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.; every Wednesday night from 5:30 p.m. until 8:30 p.m.; one week at Christmas, beginning December 17, 1996 at 6:00 p.m. and ending Christmas Eve, or from 6:00 p.m. on Christmas Eve until one week thereafter ending at 6:00 p.m., and the parties shall alternate the weeks; alternating major holidays of Martin Luther King Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, from 6:00 p.m. the day before until 6:00 p.m. the day of the holiday; the Husband shall have one-half of the minor children's spring vacation each year; the Husband shall have visitation with the minor children on Father's Day and the Wife shall have visitation with the minor children on Mother's Day; the Husband shall have visitation with the minor children on each of the children's birthdays for one-half day; and the Wife shall have visitation with the minor children on each of the children's birthdays for one-half day, regardless of the visitation. The Husband shall further be allowed reasonable telephone contact with his children each week at reasonable hours.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as it pertains to the issue of the Husband's summer visitation with the minor children, the Court shall direct and order the parties to submit that issue to mediation. The Court shall appoint _____ to mediate and resolve the dispute between the parties as to the amount of time for the Husband to receive summer visitation with the parties' minor children.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall pay child support directly to the Wife in the amount of Seven Hundred Fifty Dollars ($750.00) per month, in equal installments of Three Hundred Seventy-Five Dollars ($375.00) on the first (1st) and fifteenth (15th) days of each month, the first payment being due on January 1, 1997, and on the first (1st) and fifteenth (15th) days of each month hereafter. The Court finds that this child support is consistent with the Tennessee Child Support Guidelines and thirty-two percent (32%) of the Husband's monthly net income. It is affirmatively acknowledged by the parties, pursuant to the provisions of Tennessee Code Annotated §36-5-101(h), that no action by the parties will be effective to reduce, prorate, modify, or terminate child support after the due date of each payment, and that they understand that Court approval must be obtained before child support can be reduced, prorated, modified, or terminated unless such payments are automatically reduced, prorated, modified, or terminated under the terms of this Order. The Husband's child support obligation shall terminate upon the youngest minor child attaining the age of eighteen (18) years, or graduation with his graduating class from high school, whichever occurs last.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in January, 1998, the Court may have another hearing upon Motion by either party to determine what the Husband's income is at that time, and child support may be decreased or increased accordingly based upon the Tennessee Child Support Guidelines.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall be allowed to claim the parties' oldest child, Megan Taylor McCain, as a deduction for purposes of filing future Federal Income Tax Returns during the remaining minority of the child, and the Wife shall claim the parties' youngest child, Daniel Cole McCain, as a deduction for purposes of filing future Federal Income Tax Returns during the remaining minority of the child.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties have agreed that the Wife will purchase the Husband's equity, albeit with a credit described in later provision, in the amount of Sixteen Thousand Six Hundred Sixty-Five Dollars ($16,665.00). As

such, the Wife shall pay to the Husband the sum of Ten Thousand Dollars ($10,000.00) down, within one (1) month of this hearing, and the Husband shall quitclaim his interest in the property located at 207 Jenry Court, in Nashville, Davidson County, Tennessee 37214. Upon receipt of the Ten Thousand Dollars ($10,000.00), the Husband shall then have a lien against the residence in his favor for the balance of the monies in the amount of Six Thousand Six Hundred Sixty-Five Dollars ($6,665.00), less a Two Thousand Dollar ($2,000.00) credit to be described herein for his equity in the home. The Wife shall be responsible for taking over payment of the mortgage payments and all expenses associated with the home effective with the January, 1997 payment. The Wife shall be responsible for any future capital gains on the property, indemnifying and holding the Husband harmless from any liability thereon. The Wife shall be solely responsible for paying the mortgage payment on this property in a timely manner and in the proper amount so as not to negatively effect the Husband's credit, indemnifying and holding the Husband harmless from any liability thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Wife shall be given a credit of Two Thousand Dollars ($2,000.00) against the remaining equity awarded to the Husband in the amount of Six Thousand Six Hundred Sixty-Five Dollars ($6,665.00), which would leave a balance owing by the Wife to the Husband of Four Thousand Six Hundred Sixty-Five Dollars ($4,665.00), which said judgment shall be secured by a lien against the property. The Wife will pay the balance of the Four Thousand Six Hundred Sixty-Five Dollars ($4,665.00) within a period of five (5) years, and upon payment the Husband shall execute a release. The Two Thousand Dollars ($2,000.00) was a credit for an air conditioning unit that the Wife purchased for the house out of her separate inheritance.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Wife shall use her immediate and best faith efforts, which would include not only refinancing, but having someone co-sign to refinance the home in order to remove the Husband's name from the present mortgage within the next twelve (12) months. If the Court finds

that the Wife has not made her best efforts to refinance, the Court will order the property sold. In the event the Wife has not refinanced the mortgage within the next twelve (12) months from this hearing date, then the Husband may file a Motion requesting the Court to sell the property by independent sale or by auction in order to remove his name from the mortgage thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall have thirty (30) days from this day in which to vacate the marital residence and have all of his personal effects and the property awarded to him hereunder removed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall be awarded all right, title, and interest in and to the property located at 206 Woodmaker Drive, in Nashville, Davidson County, Tennessee, free and clear of any interest of the Wife, and subject to any indebtedness thereon. The Wife shall execute a Quitclaim Deed. The Husband shall be responsible for any and all capital gains on the future sale of the property. The Husband shall be solely responsible for paying the mortgage payment on this property in a timely manner and in the proper amount so as not to negatively effect the Wife's credit, indemnifying and holding the Wife harmless from any liability thereon. The Husband shall use his immediate and best faith efforts, which would include not only refinancing, but having someone co-sign to refinance the property in order to remove the Wife's name from the present mortgage within the next twelve (12) months. If the Court finds that the Husband has not made his best efforts to refinance, the Court will order the property sold. In the event the Husband has not refinanced the mortgage within the next twelve (12) months from this hearing date, then the Wife may file a Motion requesting the Court to sell the property by independent sale or by auction in order to remove her name from the mortgage thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Wife shall be awarded all right, title, and interest in and to the 1991 Volvo wagon vehicle, presently in her possession, free and clear of any interest of the Husband, and subject to any indebtedness thereon. The Husband shall be awarded all right, title, and

interest in and to the 1993 GMC Sonoma vehicle presently in his possession, free and clear of any interest of the Wife, and subject to any indebtedness thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties have an Aetna 403B Plan presently in the Wife's name with an approximate value of Two Thousand Seven Hundred Twenty-Two Dollars ($2,722.00). The Husband shall be awarded one-half (1/2) of this amount, or One Thousand Three Hundred Sixty-One Dollars ($1,361.00), which may be rolled over into his name through Aetna by entry of a Qualified Domestic Relations Order or by any other means deemed appropriate by Aetna. The Husband's attorney shall prepare a Qualified Domestic Relations Order, should there be a need for one, to roll over one-half (1/2) the value of this plan into the Husband's name.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall be awarded the following items of household furniture, furnishings, and other personal property:

Living Room

Blue La-Z-Boy chair
Marble top tables
Stereo and speakers
1/2 Pictures of children
1/2 Books
1/2 Misc. odds and ends

Master Bedroom

Cherry bedroom suite

Cole's Bedroom

Blue rocker

Kitchen

Table and chairs
Microwave
Microwave table
19" Color TV
1/2 Flatware
1/2 Cooking utensils
1/2 Pots and pans
1/2 Blue china
1/2 Beverage glasses
1/2 Small appliances
Blue china

Downstairs

Blue sofa
Blue leather chair
Stereo
Stereo cabinet
Maple desk

Prints
Metal file cabinet
Desk table
Bookshelf
Oak file cabinet

Miscellaneous

Video camera
Computer table
Patio furniture
Lawn furniture
1/2 Cookbooks
Hand tools
1/2 Yard tools
Power tools
Pushmower
Lawn tractor and cart
Camping equipment
Maple dresser
Buffet hutch
1/2 Christmas decorations
1/2 Linens and towels

The Wife shall be awarded the following items of household furniture, furnishings, and other personal property:

Dining Room

Formal dining room table and 6 chairs
Formal china cabinet
Area rug
Formal picture of Taylor
Royal Daulton china
Crystal stemware
Howard & Miller clock
Various serving bowls
Silver serving trays, ice bucket, etc.
Antique drop-leaf table
Other pictures

Living Room

Formal sofa
Pink Queen Anne chair
Piano
Coffee table
Curio cabinet
1/2 Pictures of children
Brass floor lamp
1/2 Books
Area rug
1/2 Misc. odds and ends
Formal portrait of children

Master Bedroom

Shaker table
19" Color TV

Taylor's Bedroom

Cherry bed
Dresser and chest

Cole's Bedroom

Cherry bed
Cherry cradle
Cherry armoire

Kitchen

Pie safe
Refrigerator
1/2 Flatware
1/2 Cooking utensils
1/2 Pots and pans
1/2 Beverage glasses
1/2 Small appliances
Gun cabinet

Downstairs

Pink sofa
Recliner
Oval table
25" Color TV
VCR
Antique desk
Oak end tables
Brass lamps
Antique rocker
Antique side table

Miscellaneous

Freezer
Washer and dryer
Wicker porch furniture
1/2 Cookbooks
1/2 Yard tools
Antique bed
Maple table and chairs
1/2 Christmas decorations
1/2 Linens and towels

Each of the above items shall be awarded to that party, free and clear of any interest of the other party, and subject to any indebtedness thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that with respect to a large portrait of the children, the Wife shall be awarded the portrait and the Husband shall have the right to purchase a copy of the portrait from the original photographer, if he so desires.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as far as other pictures of the children are concerned, including regular photographs, the Wife will make available to the Husband the photographs so that he may have them copied at his expense. It is further ordered that any duplicates that the Wife already has, which she testified that she had, shall be turned over to the Husband.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Husband shall be allowed to review all of the pictures of the children and to receive his duplicates already made of the children within thirty (30) days of this hearing in order that he make arrangements

to have them duplicated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall adopt the proposed division of the liabilities as suggested by the Husband, with one exception. Both parties shall be equally responsible for the loan to LaBrec, the Husband's employer, in the amount of Nine Thousand Two Hundred Fifty Dollars ($9,250.00), and each party shall be responsible for making their own arrangements with Mr. LaBrec to pay back the loan. Each party shall indemnify and hold the other party harmless as it pertains to their one-half (1/2) portion or responsibility for this debt. The Court finds that this is a marital debt that shall be paid back to the creditor.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be one-half (1/2) responsible for what has been designated the "Betty McCain" loan in the amount of Five Thousand Three Hundred Dollars ($5,300.00). Each party shall be responsible for making their own payment arrangements with Mrs. McCain to pay back this loan, indemnifying and holding the other party harmless as it pertains to this loan. The Court finds that this is a marital debt, and each party shall be one-half (1/2) responsible for this debt that shall be paid back to the creditor.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as it pertains to the remaining debt, the Husband shall be responsible for the Prime Option debt, the Fifth Third Bank debt, the Providian BanCorp debt, the MBNA MasterCard debt, the First American National Bank debt, the BP Oil Company debt, the Union Planter's Bank debt, and the Leader Federal Bank debt incurred during the marriage, indemnifying and holding the Wife harmless from any liability thereon. The Court finds that the Husband is paying approximately more than Nine Thousand Dollars ($9,000.00) more in the debt than the Wife.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as it pertains to any other debt not specifically mentioned herein, each party shall be responsible for that indebtedness listed in their separate name, indemnifying and holding the other party harmless from any liability thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that until the Husband obtains his own health insurance coverage for the minor children, the Wife shall be responsible for providing and maintaining the health insurance coverage on the parties' minor children through her present employer, and the Husband will reimburse the Wife for the cost of this health insurance coverage premium for the children only each month, payable on the first day of each month, beginning in January, 1997. The Wife shall provide a statement from her employer's health care provider setting forth the premium owed for the minor children as forthwith as possible. Any uncovered medical and dental expenses incurred for the benefit of the parties' minor children not covered by the Wife's health insurance carrier shall be split equally between the parties. Each party shall use their best efforts to pay the particular creditor for any of the above expenses not paid by insurance within a reasonable period of time. The Wife shall keep the Husband notified in writing as to the medical expenses and what has not been covered by her insurance carrier. The Wife shall be responsible for providing and maintaining her own health insurance coverage. The Husband shall be allowed continued coverage at his expense for a period of thirty-six (36) months following the granting of the divorce in this cause under the Tennessee COBRA Act under the Wife's health insurance carrier, and he shall be solely responsible for paying any of his uncovered medical expenses and monthly insurance premiums, indemnifying and holding the Wife harmless from any liability thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any Court costs assessed in this cause shall be split equally between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be responsible for paying their own respective attorney's fees incurred in this cause.

IT IS SO ORDERED.

ENTERED on this the _____ day of December, 1996.

JUDGE MARIETTA SHIPLEY

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that until the Husband obtains his own health insurance coverage for the minor children, the Wife shall be responsible for providing and maintaining the health insurance coverage on the parties' minor children through her present employer, and the Husband will reimburse the Wife for the cost of this health insurance coverage premium for the children only each month, payable on the first day of each month, beginning in January, 1997. The Wife shall provide a statement from her employer's health care provider setting forth the premium owed for the minor children as forthwith as possible. Any uncovered medical and dental expenses incurred for the benefit of the parties' minor children not covered by the Wife's health insurance carrier shall be split equally between the parties. Each party shall use their best efforts to pay the particular creditor for any of the above expenses not paid by insurance within a reasonable period of time. The Wife shall keep the Husband notified in writing as to the medical expenses and what has not been covered by her insurance carrier. The Wife shall be responsible for providing and maintaining her own health insurance coverage. The Husband shall be allowed continued coverage at his expense for a period of thirty-six (36) months following the granting of the divorce in this cause under the Tennessee COBRA Act under the Wife's health insurance carrier, and he shall be solely responsible for paying any of his uncovered medical expenses and monthly insurance premiums, indemnifying and holding the Wife harmless from any liability thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any Court costs assessed in this cause shall be split equally between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be responsible for paying their own respective attorney's fees incurred in this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the addresses of the parties are as follows:

Wife:
Cindy Lynn McCain
207 Jenry Court
Nashville, TN 37214

Husband:
James Daniel McCain
207 Jenry Court
Nashville, TN 37214

IT IS SO ORDERED.

ENTERED on this the 26 day of December, 1996.

JUDGE MARIETTA SHIPLEY

APPROVED FOR ENTRY:

JACKSON & ASSOCIATES

ROBERT TODD JACKSON, #13566
Counsel for Plaintiff/Husband
214 Second Avenue North
Suite 103
Nashville, TN 37201
(615) 256-2602

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Order has been forwarded to Mr. Clark Lee Shaw, Attorney at Law, 2525-A Lebanon Road, Nashville, TN 37214, on this the 19th day of December, 1996.

ROBERT TODD JACKSON

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IDENTIFICATION REFERENCE
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4806 07/21 0101 CHECK
RDOO CLIENT: 684 LOAN: 684-02433924 /LITCHFY, III /TN

STATE OF TENNESSEE

BOOK 10536 PG 435

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 26 day of DECEMBER , 19 96 , in the Case Number 96D595 between MCCAIN, JAMES DANIEL Plaintiff, and MCCAIN, CINDY LYNN Defendant, as same remains of record in Book 167A , Page 259 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 20 day of MAY in the year one thousand nine hundred and ninety-seven and in the 221st year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By Clay M. Hardin
Deputy Clerk