IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

LILLIAN KATHRYN STARKS,)

Plaintiff,)

v.) No. 02D-2143

MAXEY RAY STARKS,)

Defendant.)

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RICHARD R. ROOKER, CLERK

D.C.

Davidson County DEEDDIV
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Fees:67.00 Taxes:0.00

20070116-0006391

NOTICE OF ENTRY REQUIRED

FINAL DECREE OF DIVORCE

This cause came on for hearing on the 24th and 25th day of October and concluded on the 30th day of October, 2006, before the Honorable Muriel Robinson, Judge of the Fourth Circuit Court for Davidson County, Tennessee, upon the original Complaint filed by Wife on September 11, 2002 and Husband's Counter-Complaint filed on September 16, 2002, upon the pleadings, testimony of the parties and witnesses, argument of counsel and the entire record in this cause, the Court issues the following written Memorandum Opinion:

MEMORANDUM OPINION

This case is now before this Court on all pleadings previously filed and was heard on October 24th, 25th and concluded on October 30th, 2006. At the time of the hearing the Wife was 69 years of age and the Husband was 64 years of age. Both parties were retired and were the recipients of social security income together with small amounts of income from other sources. The parties had accumulated a substantial marital estate, basically resulting from investments made by Mrs. Starks, together with retirement assets accumulated by each party. In addition the parties have accumulated a home and rental property in Old Hickory, Tennessee together with unimproved

property also in Old Hickory, Tennessee.

At the time of the hearing Mrs. Starks was in relatively good health but Mr. Starks had had both legs amputated as a result of his being a diabetic, he has also lost the use of both hands and was confined to a wheelchair. Mr. Starks was totally disabled and dependant upon a caretaker for his day-to-day needs. He was, however, able to drive a van vehicle especially equipped for his needs. Mrs. Starks filed the original Complaint on September 11th, 2002, which was then answered by a Counter-Complaint on behalf of Mr. Starks on September 16th, 2002. At the time of trial the parties had been separated for more than 2 years and they had no minor children.

In addition to a separation of more than 2 years and no minor children, the Court finds from the proof offered by both parties that each had been guilty of inappropriate marital conduct during the marriage. However, the Court concludes that the Husband's profane and abusive conduct throughout the marriage outweighed the secret and devious activities of the Wife in her accumulation of monetary assets, which she concealed from the Husband. For these reasons the Court finds that Wife shall be awarded an absolute divorce from Husband based upon Husband's inappropriate marital conduct and the fact that the parties have been separated for more than 2 years with no minor children.

The Court will next address the issue of division of marital assets and assignment of debt responsibility. The Court identifies and divides the marital assets as follows to Wife:

Marital Residence	
(1125 Old Hickory Blvd.)	$ 116,823.00
Fidelity Preferred Retirement Acct.	$ 49,439.00

Fidelity Investment IRA	$ 91,771.00
Blockbuster / Viacom Stock	$ 4,017.00
Intel Stock	$ 4,164.00
Mid-West National Life Ins. Policy	$ 29,303.00
Fidelity Preferred Retirement	$ 80,020.00
The Farm Properties	
(5.11 acres with barn)	$ 26,000.00
(.8 acres, right-of-way)	$ 2,500.00
(6.4 acres)	$ 20,000.00
1992 Silhouette Van vehicle	$ 1,200.00
1995 Jaguar vehicle	$ 5,675.00
TOTAL	$ 430,912.00

The Court identifies and divides the marital assets as follow to Husband:

Rental Property	
(1121 Old Hickory Blvd.)	$ 63,349.00
T. Rowe Price IRA	$ 182,274.00
STI Classic	$ 20,668.00
STI Classic IRA	$ 3,167.00
Met Life Policy	$ 2,676.00
Coca Cola Stock	$ 22,907.00
Van Kampen Acct.	$ 43,121.00
The Farm Property	
(5.4 acres)	$ 27,000.00
1995 Lincoln vehicle	$ 3,175.00
2000 Silhouette Van vehicle	$ 6,825.00
2003 Dodge Ram vehicle	$ - 1,452.00
TOTAL	$ 373,710.00

The Court realizes that this division of marital assets awards the Wife approximately 54% of the marital estate and the Husband approximately 46% of the marital estate. Nevertheless, the Court feels that this is an equitable division of marital asets because the proof clearly shows that the accumulation of these substantial assets came about as a result of Wife's investment expertise and frugality. The Husband tended to spend any funds that came into his possession while the Wife tended to invest what she got possesson of. In fact the Wife admitted that she used the Husband's

income to pay the family bills from a joint account while she invested her income from an account that she kept secret from Husband.

The Court next addresses the disposition of 11.5 acres located on Claudia Avenue in Old Hickory, Tennessee, which was quitclaimed to Husband and Wife by Wife's son from a former marriage. This property was quitclaimed by Wife's son and his wife to the parties on September 8th, 1998 or immediately before the son and his wife filed a Petition for discharge in bankruptcy. The proof clearly showed that all of the parties involved in this transaction participated in the conveyance in an effort to defraud the creditors of the son and his wife. In addition thereto during the years 1994 through 1999 the parties admittedly filed joint tax returns claiming deductions for farming operations that were non-existent and for depreciation on equipment that they now claim was the property of Wife's son. From this testimony the Court comes to the inescapable conclusion that the credibility of both parties is highly questionable. The Wife's son takes the position that the 11.5 acres is his property. For the reasons cited above the Court refuses to condone the admitted fraudulent activities of all parties concerned in this conveyance and the Court leaves the title to this property as is and for the parties to resolve any dispute as to future title. As to the farm equipment, which is now claimed to be the property of the Wife's son, the court, for the same reason set out above, leaves title to that property as is and for the parties to resolve.

Mr. Starks acknowledged that he had accumulated credit card and credit debt of approximately $120,000.00 since the separation of the parties. He acknowledges that he was the beneficiary of the monies that represent those debts and he further

acknowledged that he is solely responsible for the repayment of the debt. The Court doubts that Mr. Starks has any intention of repaying a substantial portion of this debt but nevertheless finds that the repayment of the debt should be the sole responsibility of Mr. Starks. Any addition debt of either party will be the responsibility of the party that accumulated the debt and Mrs. Starks will pay any debt accumulated in her name and Mr. Starks will pay any debt accumulated in his name.

The Court further finds that each party has been awarded substantial assets and that neither party has the need for alimony. Each party shall pay their respective attorney fees and the balance of the court costs shall be divided equally between the parties.

In addition to the initial pleadings and while the divorce case was pending each party filed a Petition for Contempt against the opposite party. During the trial of the divorce case, each party through counsel announced to the Court that each would not pursue his or her respective Contempt Petition. Therefore, the Contempt Petition filed by each party is hereby dismissed with prejudice with costs attached to each respective Petitioner.

The attorney representing the Wife shall prepare a Final Decree in accordance with this Memorandum Opinion. At all times as hereinafter may be necessary, each party shall promptly execute all deeds or other documents as may be needed to effectuate the provisions of this Memorandum Opinion and/or resulting Decree.

Entered this the 21st day of November, 2006.

/s/ Muriel Robinson

1. It is, therefore, **ORDERED, ADJUDGED AND DECREED** that Wife is awarded an absolute divorce from Husband based upon Husband's inappropriate marital conduct and the fact that the parties have been separated for more than two years with no minor children.

2. It is **ORDERED, ADJUDGED AND DECREED** that Wife is awarded the following marital assets:

1.	Martial Residence	
	(1125 Old Hickory Blvd.)	$116,823.00
2.	Fidelity Preferred Retirement Account	49,439.00
3.	Fidelity Investment IRA	91,771.00
4.	Blockbuster/Viacom Stock	4,017.00
5.	Intel Stock	4,164.00
6.	Mid-West National Life Ins. Policy	29,303.00
7.	Fidelity Preferred Retirement	80,020.00
8.	*The Farm Properties*	
	(5.11 acres with barn)	26,000.00
	(.8 acres, right-of-way)	2,500.00
	(6.4 acres)	20,000.00
9.	1992 Silhouette Van vehicle	1,200.00
10.	1995 Jaguar vehicle	5,675.00
TOTAL		**$430,912.00**

The real property located at 1125 Old Hickory Boulevard, Nashville, Tennessee, is more particularly described as follows:

> Land in Davidson County, Tennessee, being Lot No. 10 of Bell Grimes Tract located in the 10th Civil District of Davidson County, Tennessee, as of record in Book 2744, Page 237, Register's Office for said County.
>
> Said Lot No. 10 fronts 90.0 feet on the southerly side of Old Hickory Boulevard and runs back between lines, measuring 153.5 feet on the easterly line and 166.2 feet on the westerly line to a dead line in the rear, measuring 94.5 feet.
>
> Being the same property conveyed to Maxey Ray Starks and wife, Lillian Starks, by deed from V. Dale Viars and wife, Jannave A. Viars, dated December 16, 1964, of record in Book 3972, Page 90, Register's Office of Davidson County, Tennessee.
>
> This conveyance is made subject to easements, restrictions, etc. as appear of record.

All right, title and interest of Maxey Ray Starks in and to the above-described property is hereby divested out of him completely and reinvested solely in Lillian Kathryn Starks.

The farm properties herein awarded to Ms. Starks, consisting of 5.11 acres with barn, .8 acres right of way, and 6.4 acres are already in her name solely. Therefore, any and all right, title and interest Mr. Starks may have in these properties is hereby divested out of him completely and reinvested in Wife, Lillian Starks solely. If necessary, Mr. Starks shall sign a Quitclaim to Ms. Starks of the above farm properties.

3. It is **ORDERED, ADJUDGED AND DECREED** that Husband is awarded the following marital assets:

1.	*Rental Property* (1121 Old Hickory Blvd.)	$ 63,349.00
2.	T. Rowe Price IRA	182,274.00
3.	STI Classic	20,668.00
4.	STI Classic IRA	3,167.00
5.	Met Life Policy	2,676.00
6.	Coca Cola Stock	22,907.00
7.	Van Kampen Account	43,121.00
8.	*The Farm Property* (5.4 acres)	27,000.00
9.	1994 Lincoln vehicle	3,175.00
10.	2000 Silhouette Van vehicle	6,825.00
11.	2003 Dodge Ram vehicle	- 1,452.00
TOTAL		**$ 373,710.00**

The real property located at 1121 Old Hickory Boulevard, Nashville, Tennessee is more particularly described as follows:

> Land in 10th Civil District of Davidson County, Tennessee, being Lot No. 3 on the Plan of K. J. Morris lands, of record in Book 57, Page 49, Register's Office for Davidson County, Tennessee, more particularly described according to a boundary survey of Richard B. Omohundro, Surveyor, dated February 10, 1960, as Tract III, as follows:
>
> Beginning at an iron pin in the south margin of Old Hickory Boulevard, the northeast corner of the property conveyed to Duke Ray, et ux, by deed from Gulf Oil Corporation, of record in Book 2923, Page 271, said Register's Office; thence South 15 deg. 25' West

157.54 feet to an iron pin; thence South 80 deg. 14' East 65 feet to an iron pin; thence North 16 deg. 14' East 145.2 feet to an iron pin in the south margin of Old Hickory Boulevard; thence with the margin of the same, northwestwardly 65 feet to the point of beginning.

INCLUDED IN THE ABOVE DESCRIPTION BUT EXPRESSLY EXCLUDED THEREFROM IS THE FOLLOWING PROPERTY conveyed to Metropolitan Government of Nashville and Davidson County by Larry E. Wilkinson and wife, Sandra J. Wilkinson, by instrument of record in Book 4847, Page 537, said Register's Office, as follows:
Being a part of Lot No. 3 on the Plans of the Division of the K. J. Morris Lands, of record in Book 57, Page 49, described as follows:
Beginning at the point of intersection of the south margin of Old Hickory Boulevard and the west boundary of the Larry E. Miller property; thence along the said west boundary southwardly 5 feet, more or less, to a point; thence along the meander of the slope westwardly 66 feet to a point; thence northwardly 5 feet, more or less, to a point in the said south margin; thence along the said south margin eastwardly 65 feet to the point of beginning and containing 295 square feet.

Being the same property conveyed to Maxey R. Starks and wife, Lillian C. Starks, by deed from Charles L. Starks and wife, Dina D. Starks, dated February 14, 1992, of record in Book 8551, Page 43, Register's Office of Davidson County, Tennessee.

This conveyance is subject to an recorded Declaration of Protective Covenants, conditions or restrictions and any easements of Plat affecting said property which are of record in said Register's Office.

All right, title and interest of Lillian Kathryn Starks in and to the above-described property is hereby divested out of her completely and reinvested solely in Maxey Ray Starks.

4. The farm property known as 5.4 acres is more particularly described as follows:

A tract of land located in the Second Civil District of Metropolitan Nashville and Davidson County, Tennessee. Being part of Parcel 28 on Map 44 of the Tax Assessor's Office for Davidson County, Tennessee. Also being more particularly described as follows:

Beginning at a point in the northwest corner of said Parcel 28; said point also being the southwest corner of Martin Jones' property, as of record in Deed Book 3163, Page 9, of the Register's Office for said county; thence South 46 deg. 28' 00" East 407.41 feet to the true point of beginning. Thence South 46 deg. 28' 00" East 30.02 feet to a point; thence South 41 deg. 45' 28" West 1072.30 feet to a point; thence North 46 deg. 49' 00" West 16.40 feet to a point; thence North 34 deg. 35' 00" West 562.30 feet to a point; thence North 49 deg. 16' 00" East 400.00 feet to a point;

thence South 31 deg. 38' 06" East 501.43 feet to a point; thence North 41 deg. 45' 28" East 686.78 feet to the point of beginning, containing 233,138.75 square feet or 5.3521 acres.

Also conveyed herein is non-exclusive perpetual easement for purposes of ingress and egress in the following described land:

Land in the Fourth Civil District of Davidson County, Tennessee, according to a survey by John D. McCormick, Land Surveyor, dated October 13, 1973, being a 50 foot wide strip of land extending generally southerly from Claudia Drive to a 11.5 acre tract and 12.1 acre tract and described as follows:

Beginning at a concrete monument in the southwest corner of Claudia Drive where it intersects the northerly line of the 5.01 acre tract of land retained by Martin R. Jones and wife, and also, being the northwest corner of the within described land; thence North 40 deg. 44' West crossing Claudia Drive 50 feet to a concrete monument; thence with a curve going generally South with a radius of 63.83 and a length of 83.98 feet to a point; thence South 26 deg. 05' East 17.5 feet to an iron pin; thence Southerly with a curve having a radius of 19.46 feet and a length of 23.10 feet to an iron pin; thence South 41 deg. 56' West 529.5 feet to an iron pin in the northerly line of a 12.1 acre tract purchased by John L. Crandall and then continuing with the northerly boundary of said 12.1 acres tract South 46 deg. 28' East 25.03 feet to a point; thence South 34 deg. 09' East 25.7 feet along the northerly line of a 11.5 acre tract purchased by John L. Crandall to an iron pin; thence North 41 deg. 56' East 535.7 feet to an iron pin; thence with a curve having a radius of 69.46 feet and a length of 82.46 feet to an iron pin; thence North 26 deg. 05' West 17.5 feet to an iron pin; thence with a curve and in a generally northerly direction with a radius of 13.83 feet and a length of 18.20 feet to the point of beginning.

Being the same property conveyed to Lillian C. Starks and husband, Maxey R. Starks, by deed from Steve Conatser and wife, Karen Conatser, dated September 8, 1998, of record in Book 11103, Page 289, Register's Office of Davidson County, Tennessee.

All right, title and interest of Lillian Kathryn Starks in and to the above-described property is hereby divested out of her completely and reinvested solely in Maxey Ray Starks.

5. It is, therefore, **ORDERED, ADJUDGED AND DECREED** that Wife is awarded approximately 54% of the marital estate and the Husband approximately 46% of the marital estate. The Court finding this is an equitable division of marital assets because the proof clearly shows that

the accumulation of these substantial assets came about as a result of Wife's investment expertise and frugality. The Husband tended to spend any funds that came into his possession while the Wife tended to invest what she got possession of. If fact, Wife admitted that she used Husband's income to pay the family bills from a joint account while she invested her income from an account that she kept secret from Husband.

6. As concerns the disposition of 11.5 acres located on Claudia Avenue in Old Hickory, Tennessee, which was quitclaimed to Husband and Wife by Wife's son from a former marriage, the Court leaves title to that property as is and **ORDERS** the parties to resolve ownership of this property.

7. It is further **ORDERED, ADJUDGED AND DECREED** that Mr. Starks will be solely responsible for the credit card debt of approximately $120,000.00. It is further **ORDERED, ADJUDGED AND DECREED** that any additional debt of either party will be the responsibility of the party that accumulated the debt and Mrs. Starks will pay any debt accumulated in her name and Mr. Starks will pay any debt accumulated in his name.

8. It is further **ORDERED, ADJUDGED AND DECREED** that there will be no alimony payable from one to the other, the Court finding that each party has been awarded substantial assets and that neither party has the need for alimony.

9. It is further **ORDERED, ADJUDGED AND DECREED** that the Petitions for Contempt filed by the parties, one against the other, are hereby dismissed with prejudice with costs thereof attached to each respective Petitioner.

10. It is **ORDERED, ADJUDGED AND DECREED** that each party will pay their respective attorney's fees.

11. It is finally **ORDERED, ADJUDGED AND DECREED** that the costs of this cause are assessed equally between the parties, which amount is reduced to judgment for which let execution issue, if necessary. Mr. Starks' address is 2708 S.W. 32nd Avenue, Apartment 209, Ocala, FL 34474-3390. Ms. Starks' address is 914 Highland Circle, Madison, TN 37115.

Enter this 22nd day of Dec, 2006.

MURIEL ROBINSON, JUDGE

APPROVED FOR ENTRY:

D. SCOTT PARSLEY, #13606
BARRETT, JOHNSTON & PARSLEY
217 Second Avenue, North
Nashville, Tennessee 37201
(615) 244-2202
(615) 244-4345 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on the Honorable Amanda McClendon, Riverview Building, 523 Main Stream Drive, Nashville, TN 37228, and the Honorable David W. Garrett, 43 Music Square, West, P. O. Box 121857, Nashville, TN 37212, by placing same in the U. S. Mail, postage prepaid, on this 24 day of December, 2006.

D. SCOTT PARSLEY

CERTIFICATE OF SERVICE

DOCKET NO. 02D2143

Pursuant to Rule 58(3) of the Tennessee rules of Civil Procedure, I hereby certify I have mailed a copy of the foregoing Judgment to the parties/counsel listed below, on this 27TH day of DECEMBER, 2006.

RICHARD R. ROOKER, Circuit Court Clerk

BY: _____

Deputy Clerk

D. SCOTT PARSLEY, ATTORNEY
BARRETT, JOHNSTON & PARSLEY
217 2ND AVE. NORTH
NASHVILLE, TN 37201

JUDGE AMANDA MCCLENDON
RIVERVIEW BUILDING
523 MAINSTREAM DR.
NASHVILLE, TN 37228

DAVID W. GARRETT, ATTORNEY
43 MUSIC SQUARE WEST
P.O. BOX 121857
NASHVILLE, TN 37212

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 22 day of DECEMBER , 2006 , in the Case Number 02D2143 between STARKS, LILLIAN KATHRYN Plaintiff, and STARKS, MAXEY RAY ET.AL Defendant, as same remains of record in 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 16 day of JANUARY in the year two thousand seven and in the 230th year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

SEAL

