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

FILED
2009 OCT -3 AM 11:52
RICHARD R. ROOKER, CLERK
D.C.

David Nicholson,	)	
Plaintiff/Husband,	)	
	)	
v.	)	**No. 03D-2551**
	)	
Charlotte Jeanel Nicholson,	)	
Defendant/Wife.	)	

BILL GARRETT, Davidson County
Trans:T20090068272 DEEDDIV
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20091006-0093122

FINAL DECREE

This matter came on to be heard on the 13th day of August 2008 upon the Petition for Divorce and Counter-Complaint filed by David Nicholson (Husband) and the Answer thereto filed by Charlotte Jeanel Nicholson (Wife) and Answer to Counter-Complaint filed by Husband.

Upon the testimony of the parties and Husband's witness, statements of counsel and the entire record in this cause, the Court finds that Husband has sustained his burden of proof to show that the parties have lived apart for more than two years without cohabitation and that there are no minor children of the marriage, and that he was therefore entitled to a divorce pursuant to T.C.A. § 36-4-101 (15). The Court further finds that the parties should each be restored to the rights and privileges of an unmarried person. The Court further finds that both parties are gainfully employed, and that although Wife appears to have health-related issues, no medical proof was introduced and the Court cannot make any assumptions in this regard. The Court therefore further finds that this is a case for limited alimony in futuro, as follows: Husband shall pay Wife's COBRA premiums (currently $362.10) for 36 months as alimony, and he shall pay the amount of $300.00 to Wife for 48 months, following which all such payment obligations shall cease. Such alimony shall be deductible to Husband and taxable to Wife, and it shall terminate upon Wife's death or remarriage.

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The Court further finds that it has previously divided the parties' personal and financial assets and liabilities, except for the parties' retirement benefits. Each party is awarded the retirement benefits in his or her respective name. The Court recognizes that Husband's retirement account is $41,082 and Wife's is $47,575. Husband's previously awarded alimony was supposed to be modified with any increase in the first and second mortgages on what had been the marital residence, and it does not appear that such modification were ever effectuated. Wife shall have thirty days from August 13, 2008 - i.e. to September 12, 2008 - to provide competent evidence of how Husband's alimony should have increased since the parties' decree of legal separation was entered. Husband shall have 15 days to review Wife's proof. Either party may within a reasonable time thereafter move the Court to determine any alimony arrearage. Should there be such arrearage, Husband may receive an offset of up to one half of the difference between the amounts of each parties' retirement benefits. If after this offset, any amount is still determined to be owing, the Court may set an appropriate payment schedule. The Court further finds that is has previously awarded the marital residence to Wife, subject to the mortgages thereupon, which Wife was required to pay and to hold Husband harmless thereon. The Court finds that it is necessary and appropriate to provide prospective relief to Husband in the event that Wife does not timely pay the mortgages. Therefore, should the first or second mortgage secured by the marital residence fall behind by ninety days, the house shall immediately be placed for sale by the Circuit Court Clerk. In such case, Wife shall receive all net proceeds, ~~net of~~ after the expenses of sale and ~~of~~ any liens upon the property, following such sale; alternatively Wife shall be responsible for any deficiency and shall hold Husband harmless thereon.

The Court further finds that each party is to be responsible for his or her own attorney fees, and that court costs are taxed equally to the parties.

It is therefore ORDERED, ADJUDGED and DECREED that the Husband is granted a divorce on the ground of two years separation with no minor children and the parties

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are
~~and~~ restored to all the rights and privileges of unmarried persons.

It is further ORDERED, ADJUDGED and DECREED that Husband shall pay Wife's COBRA premiums of $362.10 for 36 months as alimony, and alimony in futuro of $300.00 a month for 48 months, or until Wife's death or remarriage if earlier.

It is further ORDERED, ADJUDGED and DECREED that the parties are each granted their retirement accounts.

It is further ORDERED, ADJUDGED and DECREED that if Wife provides competent evidence of how Husband's alimony should have increased because of an increase in the first and second mortgages, either party may, within a reasonable amount of time move the Court to determine alimony arrearages.

~~It is further ORDERED, ADJUDGED and DECREED that should there be such arrearages, Husband shall receive an offset up to one-half of the difference between the amounts of each party's retirement benefits, and that if any amount is determined to be owing after such offset, the Court shall set an appropriate payment schedule.~~ at hearing not ordered as of trial date.

It is further ORDERED, ADJUDGED, and DECREED that should the first or second mortgage secured by the marital residence fall behind by ninety days, the house will be placed for sale by the ~~Clerk of the Court,~~ Circuit Court Clerk with Wife receiving all net proceeds, net ~~of~~ after the expenses of sale and ~~of~~ any liens upon the property, following such sale or, alternatively, Wife will be responsible for any deficiency and shall hold Husband harmless.

It further ORDERED, ADJUDGED, and DECREED that each party shall be responsible for his or her attorney fees.

It is finally ORDERED, ADJUDGED, and DECREED that Court costs are taxed equally to the parties.

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ENTER this 3rd day of Oct., 2008.

Judge Muriel Robinson

APPROVED FOR ENTRY:

Jeffrey L. Levy, BPR# 18770
Corley Henard Lyle Levy & Langford, PLC
424 Church Street, Suite 2925
Nashville, Tennessee 37219
615-627-4677
Attorney for Husband

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been ~~mailed~~ delivered by hand or first class postage prepaid to Joy M. Sims, 611 Woodland Street, Nashville, Tennessee 37206 on this the 3 day of ~~August,~~ October 2008.

Jeffrey L. Levy

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 03 day of OCTOBER , 2008 , in the Case Number 03D2551 between NICHOLSON, DAVID Plaintiff, and NICHOLSON, CHARLOTTE JEANEL 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 06 day of OCTOBER in the year two thousand nine and in the 233rd year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____ Deputy Clerk

SEAL

