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IN THE EIGHTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

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RICHARD R. ROOKER, CLERK

D.C.

DAVID ALLEN BYRD,

Plaintiff / Husband,

HOLLY NANETTE BYRD,

Defendant / Wife.

No. 04D-2848

FINAL JUDGMENT OF DIVORCE

This cause came to be heard on the 19th day of September, 2006, upon the Complaint for Divorce, the Counter Complaint, the statements of counsel, the testimony of the witnesses and the entire record herein, from all of which the Court finds that the Husband should be granted a divorce from the Husband on the ground of the Wife's inappropriate marital conduct and habitual abuse of alcohol. The Court notes that the Wife was duly noticed for the final hearing, but failed to appear because she was incarcerated due to a probation violation on a criminal charge. However, Wife's counsel, Martha Child, was present along with Wife's mother, and Ms. Child made every effort to ensure that the Wife's rights were protected.

IT IS, THEREFORE, ORDERED that the Husband is granted a divorce from the Wife on the ground of the Wife's inappropriate marital conduct pursuant to Tenn. Code Ann. § 36-4-101(11), and on the ground of the Wife's habitual abuse of alcohol pursuant to Tenn. Code Ann. § 36-4-101(1). The Court finds that the latter ground is also appropriate in this case because although the Husband knew of Wife's addiction to alcohol prior to the marriage, she had made great strides by the time they married, and only later began abusing alcohol again to the extent that she did not remain sober. Both parties are restored to all rights and privileges of unmarried persons.

IT IS FURTHER ORDERED that each party is enjoined from contacting or coming about the other person for any reason pending further orders of this Court, and that includes an injunction against the Wife going to the residence at 703 Maplewood Lane.

IT IS FURTHER ORDERED that each party is awarded all personal property in his/her possession, and the other party is divested of any interest therein, with the exception that the Husband is awarded the computer in the Wife's possession and Wife is divested of any interest

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therein, and Wife is awarded the following items that are in the Husband's possession, and she shall be responsible for contacting Husband's attorney, Karla C. Hewitt, to set up a time to retrieve her items once she is released from incarceration:

Awarded to Wife: Antique radio, jewelry armoire, wooden dresser in Nathan's room (refinished by Wife), wooden chest in living room (refinished by Wife), guest bedroom suite upstairs (gift from Wife's mother), brown rocking chair (from a friend of Wife's mother), cedar chest, small television upstairs, wooden bookshelf on top of entertainment center, one of the upstairs bookshelves, some of the home décor items (mirrors, pictures, vases), one-half of the family photos, her record albums, art supplies, crafts, acrylic paints, personal items such as recipes, clothing, her personal papers and documents, and two heavy duty plastic utility shelves (if Husband has them).

Wife shall turn over the computer to the Husband within fourteen (14) days of her release from incarceration.

IT IS FURTHER ORDERED that the Husband is awarded the Chevrolet Lumina automobile titled in his name and in his possession, and the Wife is divested of any interest she may have therein. Husband is responsible for payment of any and all indebtedness against this vehicle, and holds the Wife harmless and indemnifies her thereon. The Wife shall execute any and all documents necessary to transfer title to the Husband.

IT IS FURTHER ORDERED that the Wife is awarded the 1990 Chevrolet Van automobile, and the Husband is divested of any interest he may have therein. Wife is responsible for any and all indebtedness against this vehicle, and she holds the Husband harmless and indemnifies him thereon. The Husband shall execute any and all documents necessary to transfer title to the Wife.

IT IS FURTHER ORDERED that the marital residence located at 703 Maplewood Lane, Nashville, TN 37216 is awarded to the Husband as his sole and separate property, and the Wife is divested of any interest therein. The Husband is responsible for payment of all indebtedness against this property, and holds the Wife harmless and indemnifies her thereon. This property is more particularly described as follows:

> Two Tracts or Parcels of land in Davidson County, Tennessee, designated on the Assessor of Property for Davidson County, Tennessee, as Map 061-06-0 Parcel 030.00 and described in the previous instruments of conveyance as follows:

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Tract 1:

Being the Southeast part of Lot No. 2 on the map showing the subdivision of part of the William Bradford Land, as of record in Book 547, page 91, Register's Office for Davidson County, Tennessee , described as follows:
Said part of said lot fronts 94 feet on the north side of Maplewood Road or Lane and runs Back between parallel lines as measured from the center line of said Maplewood Road or Lane 375 feet along the common line between lots Nos. 1 and 2, to a dead line in the rear. (This is the same description as in Book 1195, page 235, Register's Office for Davidson County, Tennessee.)

Tract 2:

Being part of Lot No. 2 on the map showing the subdivision of part of the William Bradford Land, as of record in Book 547, page 91, Register's Office for Davidson County, Tennessee, described as follows:

Beginning at a spike in the center of Maplewood Lane at the South East corner of the tract or parcel of land conveyed to us by said deed from Mamie Crain Hardy and Husband; running thence North 2 deg. 45 West 166 feet to a point .5 feet West of corner of Rock Wall; thence North 77.5 deg. East 10.8 feet to a stake; thence North 7 deg. 45' East 103.18 feet to a fence post in the line between our lands and those of said A.W. Simpkins and wife thence with said line South 3 deg. 30' West 271.5 feet to the spike in the center of Maplewood Lane, the point of Beginning. (This is the same description as in Book 1260, page 475, Register's Office for Davidson County, Tennessee.)

Being the same property conveyed to David Byrd and Holly Byrd by deed from Martin Crum and Tanya M. Crum of record in Instrument No. 200001240007703, Register's Office for said County.

The Court finds that the Wife made no contribution to payment of the indebtedness on the marital residence for two years, and that the equity in the marital residence is $ 62,979.00. From the time that the parties purchased the marital residence, the equity increased at an average of $ 10,497.00 per year. The Court finds it appropriate to deduct two years of appreciation or equity increase from the total of $ 62,979.00, finding that the appropriate value of the equity as marital property is $ 41,986. The Court awards half of this amount, or $ 20,993.00, to the Wife

as her equitable interest in the marital residence. However, due to the Wife's instability and in her best interest as well as the children's best interest since the Court is holding the payment of child support in abeyance, including the issue of any retroactive support the Wife might owe to the Husband, the Court Orders the payment of these funds to be held in abeyance until such time as the Court hears any request by the Wife for alimony.

IT IS FURTHER ORDERED that the Husband is awarded the Fairfield timeshare and the Wife is divested of any interest therein. The Husband is responsible for payment of any indebtedness, expenses or fees associated with this property, and he holds the Wife harmless and indemnifies her on same. Wife shall execute any and all documents necessary to remove her name from this property.

IT IS FURTHER ORDERED that the Husband shall attend two Alcoholics Anonymous classes per week until further orders of this Court, the Court finding that the Father's regular consumption of alcohol in his home warrants this requirement, and the Court is concerned that he is the only parent left who can properly care for the children.

IT IS FURTHER ORDERED that each party shall be responsible for all debts in his or her separate name, and each indemnifies the other and holds them harmless on same.

IT IS FURTHER ORDERED that counsel for Husband shall file a Motion to Transfer the Juvenile Court case (docket no. PT 22015) pertaining to the three minor children of the marriage, to wit, Nathan Pressley Byrd, d/o/b 04/17/98, Catherine Loraine Byrd, d/o/b 03/10/00, and David Tyler Byrd, d/o/b 03/10/00, within thirty (30) days of the entry of this Order. This Court will accept jurisdiction of all issues pertaining to the minor children, including, but not limited to, custody, support and visitation. The Court holds the Wife's visitation in abeyance until such time as the Juvenile Court case is transferred to this Court and until such time as the Wife petitions the Court for visitation.

IT IS FURTHER ORDERED that each parent shall complete the educational seminar for divorcing parents and uptoparents.org within fourteen (14) days.

IT IS FURTHER ORDERED that, upon Motion of Wife's counsel, the issue of whether the Wife is entitled to any alimony is reserved, but the Wife must make application to the Court within one hundred twenty (120) days of the entry of this Order, or she is forever barred from making such application.

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IT IS FURTHER ORDERED that the Husband is awarded his SunTrust Roth IRA with an approximate balance of $ 17,060.42 as of June 30, 2006, Account # T1F-009539, the proof showing that this account was the Husband's separate property owned prior to the marriage, and that the Wife did not contribute substantially to the preservation and appreciation of this separate asset, and the Wife is divested of any interest therein; and, further, the Husband is awarded his Primerica Account with a balance of $ 8,315.17 as of March 31, 2006, Account # 137232493 and the Wife is divested of any interest therein.

IT IS FURTHER ORDERED that the Wife is awarded her Primerica Account with a balance of $ 7,060.29 as of December 31, 2004, and the Husband is divested of any interest therein.

IT IS FURTHER ORDERED that the Husband's 401(k) with HCA with an approximate balance of $ 6,621.51 as of March 31, 2006 is divided equally so that the Wife receives $ 3,130.76, but rather than transfer these funds pursuant to a Qualified Domestic Relations Order, the Court finds that the Husband should be awarded this account, and the Wife's interest as described herein should be added to her share of the other assets awarded herein, including her share of equity in the marital residence, and that distribution of this $ 3,130.76 shall be held in abeyance for the same reasons that the Wife's equity in the marital residence is held in abeyance.

IT IS FURTHER ORDERED that the Wife is awarded $ 6,466.50 of the Husband's retirement plan with HCA, the Court finding that the total value of the Plan as of March 31, 2006 is $ 51,628.16; and that $ 35,000.00 is the Husband's separate property, having been accrued before the marriage, and that the total value of the funds accrued during the marriage is $12,933.00, which the Court divides equally. Husband's counsel shall be responsible for having the necessary paperwork, including a Qualified Domestic Relations Order, prepared so that these funds may be transferred, but the Court hereby Orders that distribution of the funds awarded to the Wife is held in abeyance pending further orders of this Court for the reasons previously stated herein.

IT IS FURTHER ORDERED that each party is awarded all banking accounts in his/her name and the other party is divested of any interest therein.

IT IS FURTHER ORDERED that each party shall be responsible for his/her own attorney fees.

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IT IS FURTHER ORDERED that the Wife's counsel, Martha Child, is hereby relieved as counsel of record and/or surety in this cause.

IT IS FURTHER ORDERED that the Wife is responsible for the costs of this cause, for which execution shall issue, if necessary.

The address of the Husband is: David A. Byrd
703 Maplewood Lane
Nashville, TN 37216

The address of the Wife is: Holly N. Byrd
1110-A Sunnymeade
Nashville, TN 37216

ENTERED this 14th day of Nov 2006.

HONORABLE CAROL SOLOMAN

APPROVED FOR ENTRY:

Karla C. Hewitt

KARLA C. HEWITT, BPR #18037
HEWITT & BARRY, ATTORNEYS
Attorney for Plaintiff / Wife
555 Marriott Drive, Suite 200
Nashville, Tennessee 37214
(615) 391-4200

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Judgment of Divorce has been forwarded, via U.S. Mail, first class, postage pre-paid and addressed to the following:

Martha Child
Attorney for Wife
392 Harding Pl Ste 215
Nashville TN 37211-3979

this 19th day of October, 2006.

Karla C. Hewitt

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 EIGHTH Circuit Court for Davidson County, Tennessee, on the 14 day of NOVEMBER , 2006 , in the Case Number 04D2848 between BYRD, DAVID ALLEN Plaintiff, and BYRD, HOLLY NANETTE 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 13 day of JANUARY in the year two thousand fourteen and in the 237th year of American Independence.

RICHARD R. ROOKER, Clerk,

By _____
Deputy Clerk

SEAL

