

IN THE CIRCUIT COURT OF THE 5TH JUDICIAL CIRCUIT
IN AND FOR HERNANDO COUNTY, FLORIDA
DOMESTIC RELATIONS DIVISION - DCB

In re the marriage of:

Yan L. ~~Freed~~
Freed
Wife

and

Case No. 2020 DR 1687

Robert A. Freed
Husband

FINAL JUDGMENT OF DISSOLUTION

The captioned matter was brought before the Court on October 21, 2021 for a trial on a Petition and Counter-petition for Dissolution of Marriage. Both parties were present along with counsel and interpreter services for the Wife. After taking testimony, receiving evidence, and being otherwise advised in the premises, the Court **FINDS AND ORDERS AS FOLLOWS:**

JURISDICTION AND DISSOLUTION

1. The parties were married March 14, 2009. They were been residents of the State of Florida for more than six months prior to the filing date of September 22, 2020.
2. The marriage between the parties is irretrievably broken. The marriage is dissolved and the parties are returned to the status of being single.
3. The parties have no minor children and the Wife is not currently pregnant.
4. Wife does not request the restoration of her former name.

EQUITABLE DISTRIBUTION

5. Real Property: The parties own a marital home located at 2267 Country Ridge Lane, Spring Hill, Florida. The parties stipulated that the value of the home is currently \$370,000 based on the appraisal entered into evidence. (W3) There is no mortgage on the property. The parties further stipulated that Husband will purchase the Wife's equity in the home for \$185,000. Upon receipt of this Final Judgment, Wife shall sign a quit claim deed for her interest in the marital home. This deed shall be held in trust by counsel for the Wife. Husband shall have twenty (20) days from the date of this Order to provide that payment. Upon confirmation of payment, counsel for the Wife shall release the quit claim deed to counsel for the Husband for recording.
6. Vehicles: The parties have two vehicles and a golf cart. The Wife shall keep the 2016 Subaru Legacy currently in her possession. Husband shall keep the 2012 Toyota Highlander. Each party shall sign any documents immediately upon presentation to effectuate the transfer of title or registration. Both parties shall return the spare key to the other's vehicle to their attorneys within five (5) days of this Order. Wife shall return the garage door opener to her attorney within five (5) days of this Order. Based on the evidence and testimony presented, the value of the Toyota is \$14,147 and the Subaru is \$16,975 for a difference of \$2,828. There are no loans on either car. The Golf Cart is worth approximately \$2,800 according to the testimony of the Wife. The Husband shall keep

the golf cart and the parties are even as to this section of equitable distribution.

7. The Fidelity IRA (inherited), the Schwab IRA (inherited), the \$50,000 in cash (inherited), and the Gate City Account were never comingled and are the non-marital property of the Husband.
8. The parties stipulated that the State Farm overpayment of \$188 is the property of the Husband. Wife shall endorse the check immediately upon presentment.
9. Husband has a pension from North Dakota for which he receives a gross monthly distribution of approximately \$3,420. Husband contributed to this account from 1988 until he retired on August 31, 2017. The parties stipulated that $\frac{1}{2}$ of the marital portion of this pension (that accumulated between March 4, 2009 and August 31, 2017) shall be distributed to the Wife via a qualified domestic relations order (QDRO). Counsel shall ensure a QDRO is prepared as soon as possible and the parties shall equally share in the cost. It is estimated by the Husband that the monthly distribution to the Wife will be approximately \$650. Husband shall immediately begin paying \$650 per month to the Wife with the first payment due November 1, 2021 and the 1st of each month thereafter until the QDRO is in place. The parties shall reconcile the amounts the Husband paid with the amount actually owed each month to determine which party may be owed a credit. The party owing the

credit shall pay that amount to the other party within thirty (30) days of the QDRO being in place.

10. Husband's TIAA Account (#40556) had a date of filing balance of \$206,463.38. The parties stipulated that the Wife is entitled to ½ of the marital portion of this account. Counsel shall ensure a QDRO is prepared to distribute the Wife's share with the parties equally sharing in the cost.
11. Husband's Fidelity Roth Account (#2789) had a date of filing balance of \$173,471.80. (this includes the \$7,000 transferred by the Husband in August of 2020). The parties stipulated that the Wife is entitled to ½ of the marital portion of this account. Counsel shall ensure a QDRO is prepared to distribute the Wife's share with the parties equally sharing in the cost.
12. The Fidelity Brokerage Account (#9417) contains both premarital and marital funds (specifically the proceeds from the sale of a marital home in North Dakota). Based on the comingling within this account, the entire account is marital property. *See, e.g. Pfrengle v. Pfrengle*, 976 So.2d 1134 (Fla. 2nd DCA 2008). According to the statements submitted into evidence (W4), the balance in this account as of the date of filing was \$606,422. Wife's request to value this account as of the date of trial is denied. Wife's request to include the \$28,000 transferred from this account to the Husband's personal checking account is denied. All accounts will be valued as of the date of filing. The testimony was that

this portion of the asset was dissipated by paying household expenses and there was no showing of misconduct. This account shall remain the sole property of the Husband. Wife is entitled to a credit of \$303,211.

13. Fidelity Education Account (#4695) was created for the benefit of Grant Zander. This is non-marital property that is not subject to distribution.
14. Knights of Columbus policy #6402 (W11) was purchased in 1993 in the name of the Husband's son who is the insured. The uncontradicted testimony of the Husband was that this policy was created as a gift for his son. The Court finds that this is the property of Grant Zander and therefore not subject to distribution.
15. Knights of Columbus policy #5713 (W12) was issued January 1, 1982. It had a cash value of \$7,044.64 as of January 1, 2017. It appears that the policy was paid in full as of 2013 and had a cash value at that time of \$6,881.49. As of April of 2013, the Husband owned this policy for 31 years (\$222 per year). 4 of those years were marital. The remaining earnings of \$163.15 were all marital for a total marital portion of \$1051.15. The account shall remain the property of the Husband and the Wife is entitled to a credit of $\frac{1}{2}$ of the marital portion (\$525.57).
16. Knights of Columbus policy #8167 (W13) was issued April 19, 1988 and had a date of filing cash value of \$36, 244.72. Husband owned this policy for a total of 32 years as of the date of filing (\$1,132.65 per year). $10 \frac{1}{2}$ of those years were marital for a total marital portion of

\$11,892.82. The account shall remain the sole property of the Husband. Wife is entitled to a credit of ½ of the marital portion (\$5,946.41).

17. Knights of Columbus policy #4017 (W14) was paid in full prior to the marriage and is the non-marital property of the Husband.
18. Knights of Columbus policy #0979 (W15) was issued September 11, 2002 and had a cash value as of the date of filing of \$27,951.82. As of date of filing, Husband owned this policy for 18 years. (\$1,552.88 per year). 10 ½ of those years were marital for a marital portion of \$16,305.24. This account shall remain the sole property of the Husband. Wife is entitled to credit for ½ of the marital portion (\$8,152.62).
19. Equitable Life Insurance Policy #3347 was purchased in the name of the Husband's son. The uncontradicted testimony of the Husband was that this policy was purchased as a gift for his son. The Court finds that this account is the property of Grant Zander and is not subject to distribution.
20. Nationwide Deferred Compensation Account in the Husband's name is non-marital. Husband testified that the account has had no contributions since 1995 and there was no evidence to the contrary.
21. Fidelity Account #3450 (W22) is in the Wife's name and had a date of filing balance of \$105,465.07. Wife's testimony concerning the \$5,000 used to start this account being non-marital is insufficient to carry her burden so the entire account is marital property. This account shall

remain the sole property of the Wife. Husband is entitled to credit for ½ of the account (\$52,732.53).

22. Alerus Account #661054 is in the Wife's name and had a date of filing balance of \$31,873.86. This account shall remain the sole property of the Wife. Husband is entitled to credit for ½ of the account (\$15,936.93).

23. The parties stipulated that the Husband would receive all of the coins and sports memorabilia currently located in the storage facility except for five (5) Canadian gold pieces which will be given to the Wife. Neither party shall be permitted to go to the storage facility without being accompanied by counsel or another agreed upon person. The Husband's property from the storage facility shall be provided as soon as possible.

24. Husband testified that approximately \$9,000 in coins and another \$9,000 in sports memorabilia were taken from the home by the Wife and are now missing. (Husband was able to inventory the storage facility). Wife denied selling, keeping, or giving away any of the Husband's property. While the Court finds credibility issues with the Wife's testimony in this regard, there is insufficient evidence upon which the Court could base a finding of an entitlement to credit for purposes of equitable distribution.

25. Husband providing convincing testimony that the Wife is currently in possession of his personal papers, address books, and thumb drives.

Wife shall return any and all of the Husband's items not specifically addressed herein to her attorney within five (5) days of this Order.

26. The Wife provided a five (5) page list of personal property she wants from the marital home. The list was not entered into evidence but was instead a demonstrative exhibit to help the Court and counsel follow along. The parties agree that the list is non all inclusive and anything within the marital home not specifically mentioned herein shall remain the sole property of the Husband. There were no values provided to the Court for any of these items. Based on the testimony provided by each of the parties, and in an attempt to be as equitable as possible, the Wife shall be granted the following items of personal property. Anything not contained herein shall be the property of the Husband. Wife shall arrange through counsel to retrieve the items within thirty (30) days of this Order:

- a. Big glass flower vase from master bedroom
- b. Blue flower vase in guest bedroom
- c. Dessert glass container with cover
- d. Steamer
- e. 6 wine glasses
- f. Wolf blanket
- g. Red glass flower vase
- h. 1 oval serving plate
- i. 2 white bowls
- j. 6 crystal items
- k. 3 wooden brown chairs
- l. Panasonic Television
- m. 6 glass plates (3 gold, 3 blue)
- n. Aerobic Stepper
- o. Bamboo folding table
- p. Black lamp in MBR
- q. Black telephone in living room
- r. Brother printer

- s. Brown folding stool
- t. 3 Decorative dishes (chinese pattern near phone in kitchen)
- u. Dining room table and chairs (Husband keeps curio)
- v. Iron and ironing board
- w. Folding red chair
- x. ½ of trash cans in the house
- y. ½ of plastic storage boxes in the house
- z. 2 of the 4 suitcases
- aa. ½ of cooking utensils in kitchen
- bb. ½ ceramic flower pots (including two in MBR, one by garage and 2 with chive flowers)
- cc. Small Christmas lights and 3 newer wreaths
- dd. Purple and Red coolers
- ee. ½ dining room table mats
- ff. 1 garden hose nozzle
- gg. ½ of pots, pans, baking sheets, etc.
- hh. All 24 place card holders
- ii. Hand sander, Dremel tool, one type of each screwdriver, one hammer
- jj. ½ of Zwilling flatware set
- kk. Rice cooker
- ll. Space heater
- mm. Wife's jewelry and diamond ring
- nn. Kezz glass jars
- oo. Kitchen bar cart
- pp. Waffle maker, pancake maker, pizzelle maker
- qq. 1 laundry basket, ½ of towels and bath rug sets
- rr. Marantz CD player
- ss. Round clock in MBR
- tt. MBR king mattress, frame, ½ sheets and pillows
- uu. Metal headboard from guest room
- vv. Patio furniture: short couch and 2 chairs
- ww. Bread maker
- xx. Ryobi 40V cordless jet-fan blower
- yy. Samsung Bluray Player
- zz. Shoe Cabinet
- aaa. Small lamp with rooster pattern
- bbb. Small storage box and wooden box from Wife's closet
- ccc. Table lamp in entry way
- ddd. Tennis ball hopper
- eee. Flower stands in living room
- fff. Two gallon sprayer
- ggg. Table with plant on it in family room
- hhh. Wife's personal photos
- iii. Wood pastry board
- jjj. Wooden jewelry box

- kkk. Wife and son's boxes in storage
- lll. Thermos, marble rolling pin, kitchen aid
- mmm. Chinese water color, porcelain dish from dining room
- nnn. Wife's personal collections of stamps and coins
- ooo. Keurig Coffee Maker
- ppp. Dark blue blanket from guest bedroom
- qqq. Dell desk computer with keyboard, mouse and gold metal desk chair
- rrr. Sentry F3300 Safe (with key, not combination)
- sss. Wife's laptop
- ttt. Stand mirror, infrared therapy lamp, sewing machine
- uuu. Ballerina painting, scale, b&w photos in MBR

27. Summary of Equitable Distribution Credits. First, this summary does not include the marital home (handled separately above), the vehicles (including the golf cart) which were evenly distributed above, or the pension, TIAA retirement and Fidelity Roth which are all being distributed via QDRO. Second, this summary does not include any personal property as there were no values provided to the Court. The remaining credits are as follows:

Account	To Husband	To Wife
Fidelity Brokerage		303,211.00
KOC #5713		525.57
KOC #8167		5,946.41
KOC #0979		8,152.62
Fidelity #3450	52,732.53	
Alerus #661054	15,936.93	
Equalizing Payment		249,166.14

28. Husband shall make the equalizing payment of \$249,166.14 within twenty (20) days of this Order.

ALIMONY

29. Wife is requesting durational alimony in the amount of \$600-700 per month for the next 6-8 years. This is a moderate term marriage of 10 ½ years.
30. When determining an award of alimony, one of the factors the Court is to consider is the “financial resources of each party, including the nonmarital and marital assets distributed to each.” F.S. 61.08(2)(d). Wife in this case is about to receive approximately \$435,000 in cash. She is also keeping all of her own retirement accounts, receiving the marital portion of the husband’s pension for the rest of her life, and the marital portion of two of the husband’s retirement accounts. Her testimony that she needs another \$7000-8000 per year to meet her expenses for the next 6-8 years simply lacks credibility.
31. In addition to the failure to establish need, Husband’s financial affidavit shows a monthly deficit of \$570. There was no testimony or evidence contradicting his monthly expenses. The deficit shown on the financial affidavit will increase substantially when his monthly dividends go from over \$1,200 per month to possibly zero based upon the equitable distribution scheme and his pension is reduced by the portion distributed to the Wife. Wife did not carry her burden of establishing an ability to pay the monthly amount requested.
32. Wife’s request for alimony is denied.

ATTORNEY'S FEES

33. Wife testified and provided evidence that she borrowed the \$10,000 she paid in attorney's fees. There was no evidence or testimony as to the source of the Husband's attorney fees. It is error to award attorney's fees when the equitable distribution scheme places the spouses on substantially equal footing. *Brock v. Brock*, 690 So.2d 737 (Fla. 5th DCA 1997). Based on the equitable distribution scheme set forth above, the Wife's request for a contribution to her attorney's fees is denied. Each party shall be responsible for his/her own attorney fees.
34. The Court retains jurisdiction to clarify, modify, and enforce this Final Judgment subject to the appropriate motion or filing.

ORDERED this 22nd day of October, 2021.

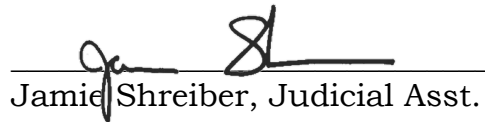


Don Barbee Jr., Circuit Judge

Copies to:

David Day – Attorney for the Wife

James R. Jones Jr. – Attorney for the Husband



Jamie Shreiber, Judicial Asst.