

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

In Re the Marriage of:)	
)	
H.K.,)	Cause No.
)	
Petitioner,)	Division No. 20
)	
vs.)	
)	
C.K.)	
)	
Respondent,)	

JUDGMENT / ORDER AND DECREE OF DISSOLUTION

This cause was called for Trial on October 27, 2015, December 8, 2015, and March 3, 2016. Petitioner (hereinafter “**Wife**”) appeared in person and by attorney, Nathan Cohen; Respondent, (hereinafter referred to as “**Husband**”) appeared in person and by attorney, Catherine Keefe. This matter having been submitted to the Court on the pleadings and proof and the Court having considered the record, the evidence, the testimony, the Court now enters its Findings, Conclusions and Judgment. The parties have not filed a request for Findings of Fact or Conclusions of Law and therefore, the court hereinafter makes only such findings as it deems necessary to state the grounds for its decisions, if any, as required by Rule 73.01c. All fact issues upon which no specific findings are made shall be considered as having been found in

accordance with the results reached. Rule 73.01(a)(2). Any finding of fact herein equally applicable as a conclusion of law is adopted as such and any conclusion of law herein equally applicable as a finding of fact is adopted as such.

Findings/Conclusions

1. The Court finds that one of the parties has been a resident of this State for ninety (90) days next proceeding the commencement of this action and that thirty (30) days have elapsed since the filing of the Petition therein; the Court further finds that there remains no reasonable likelihood that the marriage between the parties can be preserved and the marriage, therefore, is irretrievably broken.
2. Husband and Wife were married on May 19, XXX in the State of Missouri.
3. The parties separated on or about June, 2014.
4. Wife's last four digits of her Social Security Number are and Husband's last four digits of his Social Security Number are .
5. Wife is not now pregnant and neither party is a member of the Armed Forces of the United States nor its allies.

Classification and Division of Property

6. The parties are possessed of certain items of separate property as set forth below.
7. Husband has a partial interest in BC Co. where he is employed. In the proposed distribution of property, both parties agreed that this was to be awarded to Husband as his separate property.
8. The parties are awarded their separate property as follows:
 - A. Separate Property of Wife

1. Any and all bank or investment accounts held jointly with or for the benefit of Wife's children.

2. 1998 Honda Accord

B. Separate Property of Husband

1. Interest in B.C. Co.

2. Interest in Estate of W.K.

3. Interest in W.K. Trust

3. Any and all bank accounts and investment accounts held for the benefit of Husband's children.

4. Any and all guns and ammunition owned by Husband which shall be returned to him if any are in the possession of Wife.

5. IRA i/n/o CK

6. IRA i/n/o CK

7. 2007 GMC Yukon

9. The parties are also possessed of certain marital property which the Court must divide. In its division of marital property, the Court is guided by the examination of the factors set forth in V.A.M.S. §452.330.1.

10. Each party presented evidence that they wished the Court to consider as marital misconduct. Both parties behaved rudely and disrespectfully to the other. The credible evidence is that at times they had very heated arguments. The Court notes that Wife was granted an Ex Parte Order of Protection but a full order was never entered. The credible evidence is that both parties at times engaged in behavior that added to the litigation costs. However, there was no credible evidence presented that either party engaged in the

type of misconduct which cast such a burden on the other party that it rises to the level of marital misconduct justifying an unequal distribution of the marital property.

11. The Court finds that the marital property shall be divided equally.

12. The parties owned a home at _____ Drive, Chesterfield, MO. The parties sold the home before the trial and the proceeds have been deposited into an escrow account maintained by Husband's counsel. Husband asked the Court to consider his original down payment in dividing this item of marital property unequally. He also asked the Court to give him credit for several months when he paid the mortgage after the parties separated. Although Husband did make the down payment out of what were separate funds, the parties maintained the home together for a number of years and Wife contributed significantly to the maintenance of the home. The Court finds that the contribution of Wife was significant enough that each party shall be entitled to an equal share in the marital home. Further, both parties were non-cooperative regarding the payment of bills and in blaming the other for various financial problems. The Court does not find it appropriate to provide credit for any months in which Husband provided the payment of the mortgage.

13. As part of Husband's business he is a part owner of Real Properties. He has a sixty-six percent (66%) interest and his now deceased mother had a thirty four percent (34%) interest. Real Properties has a fifty percent (50%) interest in KN LLC which is the owner of the building where BC Co. is located at _____ Blvd., St. Louis, MO. Both parties had the building appraised and both appraisers testified as to the value of the building. The Court finds that the appraisal by Husband is the more credible and accurate. The credible evidence is that the building's worth is \$1,600,000. At the time of the appraiser's

testimony the principal balance on the loan on the building was \$1,467,700. The Court determines that at the final day of trial there was an additional \$23,625.00 paid towards the principal balance bringing the indebtedness on the final day of trial to \$1,444,075. The Court finds the equity in the building net of the loan is \$155,925. The marital interest to be distributed is two-thirds (2/3) of the interest of Real Properties, which is one-half (1/2) of the interest in the building.

14. Wife had a pension with St. Louis County which was acquired entirely during the marriage. The credible evidence is that the present value is \$87,562.00

15. The marital property and approximate net values are as follows:

<u>ITEM</u>	<u>VALUE</u>
A. Proceeds from the sale of _____ Drive	\$52,866.21
B. Marital interest in _____ Blvd. (2/3 x 1/2 x (\$1.6 mill- \$1,444,075))	51,455.25
C. Pension	87,562.00
D. Annuity	1,564.34
E. Passatt (net of loan)	11,408.03
F. Mercedes	11,766.00
G. Household Goods	UNK
H. Checking Account i/n/o/ Husband	Varies
I. Checking Acct. i/n/o Wife	Varies
J. Checking Acct.	Varies

K. Life Insurance Policy

No Cash Value

TOTAL MARITAL PROPERTY

\$ 216, 621.83

16. Each party is awarded the personal property they now have in their respective possessions as their sole and separate property except as specifically stated herein.

17. All right, title and interest in the following marital property of the parties shall be awarded to Wife as her sole and separate property:

<u>ITEM</u>	<u>VALUE</u>
A. Proceeds from the sale of _____ Drive	\$ 7,418.58
B. Pension	87,562.00
C. Annuity	1,564.34
D. Mercedes	11,766.00
E. Checking Acct. i/n/o Wife	Varies
F. Checking Acct.	Varies
G. Life Insurance Policy	No Cash Value
TOTAL	\$ 108,310.92

18. All right, title and interest in the following marital property of the parties shall be awarded to Husband as his sole and separate property:

A. Proceeds from the sale of _____ Drive	\$45,447.63
B. Marital interest in _____ Blvd. ($\frac{2}{3} \times \frac{1}{2} \times (\$1.6 \text{ mill} - \$1,453,525)$)	51,455.25
C. Passatt (net of loan)	11,408.03
D. Checking Account i/n/o/ Husband	UNK
TOTAL	\$ 108,310.91

19. There is also debt, which is identified and allocated as set forth below.

20. The debts and liabilities owed to the following creditors are to be assumed and paid by Wife, and she is to hold Husband harmless and shall indemnify Husband for any payments made by him thereon:

<u>DEBT</u>	<u>AMOUNT</u>
A. credit card	\$ 9,500.00

21. The debts and liabilities owed to the following creditors are to be assumed and paid by Husband, and he is to hold Wife harmless and shall indemnify Wife for any payments made by her thereon:

A. vehicle loan	\$ 12,371.00
B. Loan on Blvd.	\$1,444,075.00

Maintenance

22. Neither party requested maintenance from the other.

Attorneys' Fees, Costs of Court, and Other Orders

23. In determining the amount of attorneys' fees to be paid by either party, the Court has considered all relevant factors as set forth in RSMo. Section 452.355, including each party's marital and separate property, and each party's income and the behavior of the parties during the pendency of the litigation. Having considered all the factors, the Court finds that it is reasonable for each party to pay his/her respective attorney's fees.

JUDGMENT/ORDER

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court

24. That the marriage of the parties is dissolved.
25. Neither party is awarded maintenance from the other party; said order is not subject to modification.
26. Each party shall receive as their separate property, free and clear from any claims of the other, the property as listed in paragraph 8.
27. All right, title and interest in the parties' marital property, listed with their approximate net equity values if known, are awarded and vested in the respective parties as set forth in paragraphs 17 and 18 above.
28. Except as may be otherwise expressly provided in paragraphs 8, 17 and 18 hereinabove, all other personal property of the parties shall be the sole and exclusive property of the party presently in the possession, custody or control of the same or in whose name the same may be titled or denominated.
29. Except as may be expressly provided herein to the contrary, each party shall defend, indemnify and hold harmless the other from any and all debts, loans, mortgages, obligations, and expenses in any manner arising from, related to or connected with, any item of property, real or personal, respectively received by each under the provisions of this Judgment.
30. The debts of the marriage shall be the responsibility of the respective party set forth in paragraphs 20 and 21 above.
31. Each party is directed to execute all deeds, titles, documents and other instruments necessary to effectuate fully the provisions and intent of this Judgment.

32. No award of attorney fees is awarded to either party and each shall be responsible for the payment of their respective attorney fees.

33. Both parties shall notify, in writing, the Circuit Clerk of St. Louis County of any change of mailing address.

34. The costs of Court shall be paid from the cost deposit previously posted except that the costs of depositions and Trial subpoena shall not be included in costs.

SO ORDERED

Judge

Date