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IN THE THIRD JUDICIAL DISTRICT COURT FOR SALT LAKE COUNTY **STATE OF UTAH**	
HEIDI HENDERSON, Petitioner, v. MICHAEL HENDERSON, Respondent.	**DECREE OF DIVORCE** Civil No. 184905979 Judge Richard McKelvie Commissioner Kim Luhn

The above-entitled action was tried before the Court on November 16-18, 2022. The Court heard and considered the testimony of the parties and other witnesses and received and considered exhibits admitted into evidence as well as legal arguments of the parties which were also considered. The Court concluded that jurisdiction and grounds for this divorce and related issues existed and on May 24, 2023, the Court issued its Findings of Fact and Conclusions of Law and based thereon does now ORDER, ADJUDGE and DECREE as follows:

DIVORCE

1. Petitioner Heidi Henderson ("Petitioner") is awarded a divorce from Respondent Michael Henderson ("Respondent").

CUSTODY/PARENT-TIME

2. The parties have four children, two of which are still minors. No other children are expected. The parties are awarded joint legal custody of their two minor children EJH, born March, 2005; and ERH, born September, 2007. Pursuant to Utah Code Ann.§ 30-3-10.1, the term joint legal custody shall mean "the sharing of the rights, privileges, duties, and powers of a parent by both parents."

3. In the event the parties cannot agree on an issue relative to the welfare of a minor child of the parties, Petitioner shall have final decision-making authority.

4. Petitioner is awarded the primary physical care and custody of the minor children.

5. Respondent's parent-time, shall occur as the parties' minor children determine, and the minor children shall have the final say taking into account their school, extra-curricular, and other activities and commitments. If agreement cannot be reached, Respondent's parent-time should occur per Utah Code §30-3-35 The Court finds that Respondent has not exercised parent-time under subsection 35.1 and as such expanding his parent-time to subsection 35.1 is unsupported.

6. **Parenting Plan**

a. **Mutual Restraining Order:** The parties are restrained from disparaging

the other party to or in the presence of the children and are to instruct third-parties to also be so restrained. Both parties are restrained from discussing the legal action or any adult topics with or in the presence of the children and are to instruct third-parties to also be so restrained. The parties are permanently restrained from bothering, harassing, annoying, threatening, and/or harming the other party at any time or in any place.

b. **Medical Information:** Both parties have the right to obtain medical information on the minor children from healthcare providers directly without the necessity of going through the other party or getting their permission.

c. **Educational Information:** Both parties have the right to obtain educational information on the children directly from educators and counselors without the necessity of going through the other party or getting their permission. Each party will be listed as a parent for the purposes of school contact or medical care provider contact.

d. **Out of State Travel:** Any parent intending to take a child out of state will provide an itinerary, including any applicable airlines and flight numbers to the other parent at least a week prior to travel, including a telephone number for emergency communication. The parties will comply with the provisions of Utah Code Ann. 30-3-36(2).

e. **Emergency Medical Decisions:** The parent who has the child at the time he/she suffers a medical emergency has the authority to make any initial decision regarding emergency medical care. That parent will notify the other parent of the

emergency immediately.

f. **Day-to-Day Decisions:** Whichever parent has the children in his or her physical custody may make minor, day-to-day decisions regarding them and their care.

g. **Mediation before Litigation:** If the parties have a dispute concerning a parent-time issue, they will seek first to resolve the dispute via mediation before filing any motion or petition with the Court.

7. Holiday parent-time Holiday parent-time shall occur as the parties and the minor children agree. If the parties and the minor children do not agree, holiday parent-time shall occur as set forth in Utah Code § 30-3-35. Holiday parent-time shall take precedence over regular parent-time.

8. Extended parent-time. Parent-time shall occur as the parties and the minor children agree.

9. If the parties and the minor children are unable to agree during the children's summer break each year, each party shall be awarded up to two one-week blocks of uninterrupted extended parent-time with the minor children. Each block of extended parent-time must be separated by at least one week. The parties shall schedule extended parent-time by May 1st of each year. Extended parent-time shall take precedence over regular parent-time and holiday parent-time.

10. The parties will coordinate parent-time. If they are unable to agree, the parent commencing parent-time will be responsible for picking the children up for parent time. The

parties agree that grandparents may participate in transportation of the children for parent-time.

11. The parties shall implement, as applicable, the statutory advisory guidelines set forth in Utah Code Ann.§ 30-3-33.

THE PARTIES' EDUCATION AND EMPLOYMENT

Petitioner

12. When the parties' married in 1997, Petitioner and Respondent were both attending Ricks College and later transferred to Utah State University. Petitioner worked full-time at Estee Lauder in ZCMI and Dillard's shopping centers while the parties were attending USU.

13. Petitioner earned a degree in Family and Human Development in the spring of 2005. The Court finds that Petitioner's graduation was delayed because the parties moved for Respondent's job to Indiana.

14. While Petitioner used her degree in raising the parties' children, the Petitioner has never obtained employment outside the home using her degree.

15. When the parties' first child was born, pursuant to the parties' agreement, Petitioner ceased full-time employment. Thereafter, Petitioner worked primarily in the home caring for the home and the parties' four minor children. Petitioner testified, and Respondent did not dispute, that Petitioner only worked sporadically on a less than part-time basis, for an in-home clothing company called Layers that later ceased to do business, teaching one-hour fitness classes at various gyms where childcare was provided, some personal training, and some temporary brand marketing expo shows, none of which resulted in significant income.

16. Petitioner testified and Respondent did not dispute, that any money Petitioner earned from her jobs she was allowed to keep for "extras" for her and the children. None of the income she earned was used to pay for any family or household obligations.

17. Petitioner only engaged in this sporadic employment to the extent it did not interfere with her obligations to the children and the household.

18. Petitioner did not work full time again until the parties separated in October 2018, approximately 20 years later.

19. The Court determines that Respondent's testimony and evidence of Petitioner's alleged under-employment are not credible. Respondent argued that Petitioner should be imputed income at $110,000 gross annual based on a 10-day job Petitioner worked at CFO Now. Petitioner testified that she was hired at $50,000 with the hope of an additional $50,000 in 5-10 years in commission. The Court determines Petitioner's testimony that while she was hired for this job, she was let go because she was not qualified for the position is credible.

20. Petitioner is currently employed on a full-time basis by G.O.A.T. Haircuts, and earns gross income in the amount of $3,999 monthly, and net monthly income of $3,131.00. Petitioner is employed at her highest current income earning potential and will use this income for Petitioner.

Respondent

21. When the parties' married in 1997, and during their college years, Respondent was employed on only a part-time basis. Respondent worked a temporary job at a cell-phone

store and devoted most of his time to school studies.

22. Respondent earned an undergraduate degree in Business and a master's degree in Instructional Technology in 2001, and an MBA from Indiana University in 2007.

23. Respondent took out school loans to partially fund his education.

24. When Respondent graduated in 2001, the parties moved to Indiana for Respondent's job with Eli Lily & Co. The parties lived in Indiana for approximately 7 years and then moved to Salt Lake City, Utah for about six weeks and then Las Vegas, Nevada for Respondent's job with Myriad Genetics.

25. The parties lived in Las Vegas, Nevada for approximately 6 years and then moved to Utah for Respondent's job with Myriad Genetics which began as a contract position and then transitioned into permanent employment.

26. Respondent worked for Myriad Genetics until 2017 when he took a job with Dymicron, also in Salt Lake City, Utah.

27. Beginning in 2008, Respondent was a contractor with Myriad Genetics and traveled from Indiana to Utah each Sunday to Wednesday. When Respondent took a permanent position at Myriad Genetics also in 2008, the parties moved to Las Vegas and he did not have to travel. In August 2012 to September of 2013, Respondent's position with Myriad required him to travel from Las Vegas to Salt Lake City Monday through Friday. In September 2013 when Respondent took a new position at Myriad Genetics, Respondent traveled three to four days per week, including trips to Hawaii for 7-10 days.

28. Respondent was laid off from Myriad Genetics and started a new job with Dymicron on August 22, 2017 (P-346). Respondent's work-related travel demands continued at Dymicron.

29. While Respondent worked at Dymicron, he received a temporary reduction in salary on November 18, 2018, one month after the Petitioner filed for divorce (P- 123), and was laid off on August 26, 2020 (P-124). Respondent received a $20,000 severance payment from Dymicron when he was laid off and did not provide any of those funds to the Petitioner. Petitioner had to subpoena and depose Respondent's employer to learn about the severance.

30. Respondent began work at Natera on December 16, 2020 (P-125) and worked at Natera until September 30, 2022 when he was laid off (P-125, P-127), and began work at Transplant Genomics, Inc. aka Eurofins on January 10, 2022 (P-128), where he was employed as of trial. Despite working at Natera on December 16, 2020, he told ORS he had not obtained employment.

31. Respondent's work-related travel habits have continued at Natera and Eurofins.

32. Respondent knew of his employment with Eurofins at least as early as 12/27/21 per the Employee Notice he received from Eurofins (P-129).

33. Respondent has historically earned bonus and commissions at each of his jobs historically, and currently earns bonus and commission with his current employer Eurofins.

34. Respondent has historically received fringe benefits from his employer in the form of cell phone allowances, car allowances, reimbursement for travel.

35. Because Respondent traveled for work, Petitioner was responsible for the home and the children.

36. Respondent has maintained full-time employment since his first job after college.

37. Based on the parties' income tax returns (P-94), Respondent's W-2s, and earning statements (P-121to129), and other evidence received at trial, that Respondent's gross annual and monthly income from 2017 through 2022 from all sources is as follows:

a. 2017 - $197,593/**$16,466.00** - W-2(P-97).

b. 2018 - $186,486/**$15,540.50-** W-2 (P-100); $98,255/**$8,188 -** 1099-R vantage liquidation (P-100). Total gross income $284,741.10/**$23,728.50.**

c. 2019 - $144,960/**$12,080.00** (Dymicron- W-2 summary); $203,993 (P-108 -1099-R summary totals worksheet - $203,993 total, $35,047 federal tax withheld and $1,447 state tax withheld, **total distribution $167,499**, taxable amount $158, 097). Total gross income $312,459/**$26,038.30.**

d. 2020 - $181,607/**$15,134** (Dymicron/Natera -W-2 summary, tax return P-114).

e. 2021 - $187,233.54/**$15,602.80** (R-15 W-2).

f. 2022 - $76,067.67/**$12,678** (P-129, 6.30.33 earning statement).

38. In the year before the parties' separated in work income alone Respondent earned $197,593, or $16,466 monthly, in 2018, the year the parties separated, the Respondent earned work income of $186,486 or $15,540.50 monthly, in 2020 work income of $181,607 or

$15,134.00 monthly, in 2021 work income of $187,233.54 or $15,602.80 monthly, and in 2022 through June 30, 2022 without the benefit of earned but yet unpaid commissions, $76,067.67, or $12,678.00 monthly.

39. With the exception of 2019, Respondent earned in excess of $15,500 gross monthly during the marriage and after the parties' separated. The 2019 gross monthly work income figure of $12,080 was temporary in nature as illustrated by the return to $15,000+ gross monthly income in 2020 and 2021.

40. Based on Petitioner's Motion for Temporary Orders and Rule 102 Motion for Attorney Fees and Costs filed October 8, 2018, and the Respondent's Response and Counter-Motion for Temporary Orders filed January 2, 2019, and after a hearing held on January 16, 2019, the Court entered a Temporary Order which required the following:

a. Respondent pay monthly child support in the amount of $2,107.00

b. Respondent pay monthly alimony in the amount of $1,511.00

c. Respondent pay the monthly mortgages in the amount of $3,306.00.

41. On April 6, 2019, Respondent filed a Verified Motion and Memorandum to Amend Temporary Orders. The Commissioner's Ruling dated December 9, 2021 reinstated alimony in the amount of $1,709 commencing December 1, 2021, and recalculated child support at $1,713 beginning July 1, 2020. Based on the Petitioner's request in her Counter-Motion that Respondent provide income verification, the Court gave Respondent an opportunity until October 1, 2021 to provide the income verification or found it would utilize the $12,500 gross

number. Respondent did not provide the requested income verification and child support and alimony was based on the misrepresented gross income number.

42. Respondent is currently employed on a full-time basis by Eurofins, and based on his historical earnings, bonus, commissions, fringe benefits, and other sources of income Respondent is capable of earning $15,500 gross monthly. It is therefore proper to impute gross income to the Respondent in the amount of $15,500 per month. In 2018 the Respondent earned $186,486 gross annual or $15,540.50 gross monthly. Utilizing the withholding on Respondent's most recent earnings statement received into evidence (P-128, 6.30.22 earnings statement), and YTD withholding for FIT, MFICA, FICA and UTWITH totaling $3,009.60 over the six month period, Respondent's net monthly income to be approximately $12,490.04.

CHILD SUPPORT AND RELATED PROVISIONS

43. The parties have 4 children born as issue of their marriage: MBH, born 9/30/99 (23); MBH, born 4/02/02 (20); and EJH, born 3/10/05 (17), and ERH, born 9/12/07 (15). EJH and ERH are still minors.

44. Petitioner is awarded primary custody of the minor children, that the sole custody child support worksheet should be used to determine Respondent's child support obligation.

45. During the pendency of this action, Respondent did not timely pay his child support obligations, and was not honest with the Office of Recovery Services about obtaining employment for the purposes of paying his child support obligations.

46. The Commissioner's Ruling dated December 9, 2021 which reinstated alimony in

the amount of $1,709 commencing December 1, 2021, and recalculated child support at $1,713 beginning July 1, 2020, allowed the Respondent to satisfy both obligations by continued payment of the Marital Residence mortgage and the HELOC encumbering the Marital Residence. Petitioner opposed that Motion and argued that the Respondent was intentionally underrepresenting his income, arguing a further reduction in gross monthly income of $2,000 (to $10,500), and overstating his expenses.

47. Respondent did not pay the mortgage or HELOC. The Court held its hearing on November 8, 2021, when the Respondent was 2-months into a Covid relief from payment of the mortgage which he failed to disclose to the Court (R-95, R-96).

48. Based upon the testimony of the Respondent, he was not honest with the Office of Recovery Services about not paying his alimony and child support obligations, and in fact attempted to have ORS collect "back pay" from the Petitioner.

49. Respondent knew of the Order to pay alimony and child support, had the ability to pay the mortgage and comply with the Order and chose not to comply.

50. The Court does not find credible Respondent's excuse that obtaining Covid relief from paying the mortgage was satisfaction of his child support and alimony obligations under the Order.

51. Respondent did not pay the mortgage from September 2021 through September 2022 (R-95, R-96), nor did he pay the mortgage in October or November 2022 prior to trial. Respondent was employed during this time.

52. Based on the Court’s income analysis Respondent's child support obligation for the time period October 2, 2018 through May 31, 2020 when the parties had three minor children is $1,713, subject to credits to the Respondent for actually paid child support.

53. Based on the Court’s income analysis Respondent's child support obligation for the time period June 1, 2020 until October 1, 2021 when Petitioner's income changed is $2,110, subject to credits to the Respondent for actually paid child support.

54. Based on the Court’s income analysis Respondent's child support obligation for the parties' two minor children for the time period June 1, 2020 until there is one minor child, is $1,963, subject to credits to the Respondent for actually paid child support.

55. Respondent shall provide an accounting to Petitioner for amounts actually paid in child support for the time periods of October 2, 2018 to the date of the entry of the Decree of Divorce, with supporting documentation for each requested credit, within 30 days of the entry of the Decree. Petitioner will then have 30 days to respond to the claimed credits. If the parties are unable to agree on the arrearage amount, they may seek court assistance. Respondent shall satisfy the child support arrearage within 90-days of the entry of the Decree of Divorce.

56. When a minor child reaches eighteen (18) years of age or has graduated from high school during the child's normal and expected year of graduation, whichever occurs later, the parties shall promptly exchange income information, and the base child support award should be automatically adjusted based upon the parties then current combined gross monthly income.

57. Automatic income withholding of Respondent's child support obligation shall

continue for the duration of Respondent's child support obligation, and he shall pay his support obligations timely as set forth by ORS.

58. The amount of child support may be reviewed and modified pursuant to the provisions of Utah Code Ann.§ 78B-12-210(8) - (9).

59. If a party incurs uncovered medical or dental costs for a child, that party shall provide written verification of the cost and payment of such to the other party within 30 days of payment. The other party shall make reimbursement for one-half of the costs within 15 days of the written verification being presented.

60. During the pendency of this action Petitioner requested funds from the marital estate on a number of occasions to pay medical bills for herself and the minor children.

61. Respondent refused to provide the Petitioner any financial assistance, and instead either paid no amount towards the medical costs, or would pay only “his half” leaving the Petitioner to scramble to finds funds to pay the expenses, all while Respondent was not paying support in a timely or complete fashion.

62. The parties shall exchange medical bills and receipt for payment of the medical bill, paid for a minor child from the commencement of the action on October 2, 2018 through trial with supporting documentation for each payment, within 30 days of the entry of the Decree. Each party will then have 30 days to respond to the claimed medical expenses. If the parties are unable to agree on the amount owed by each to the other, they may seek further court assistance.

63. The party that can obtain medical and dental insurance coverage for the benefit of the minor children of the parties for so long as a child may be covered under the insurance policy, shall do so. The parties shall equally pay any out-of-pocket or uncovered medical, dental, orthodontic, mental health, or optical costs for the minor children including but not limited to premiums, co-payments, deductibles, prescriptions, out-of-network providers, uncovered providers, and uninsured costs incurred for the benefit of the minor children of the parties.

64. The parties shall equally pay any employment related childcare costs.

65. ERH shall continue to be enrolled in and play lacrosse, and EJH to participate in C-Tech; each child may also choose one additional activity if they so choose, and the parties shall share equally in these costs. Each party shall contact the activity head and arrange for direct payment of their half of the expenses. To the extent either party pays an upfront cost of these extra-curricular activities, such as registration fees, dues, tuition, tournament fees, equipment and uniform costs, travel costs (which includes transportation, lodging, and food for the children and not a parent), the party incurring a cost shall provide the other with an invoice and receipt within 30-days of payment. The other party will then have 30 days to reimburse the other for one-half of the costs.

66. A party should not be allowed to cancel payment or the child's participation in an activity without the prior written consent of both parties or when the child turns 18 or graduates with her regularly scheduled high school graduation class, whichever occurs later.

67. During their marriage, Respondent paid all expenses for the family. This included

the payment of extra-curricular activities, school registration and other fees, medical bills, and all expenses for the minor children.

68. During the pendency of this action, Respondent refused to contribute to the expenses for the minor children to engage in extra-curricular activities. Respondent shall reimburse the Petitioner for one-half of all costs she incurred for the children as set forth on exhibit P-400. Respondent should make this payment within 30 days of the entry of the Decree of Divorce.

69. The parties shall equally pay for the cost of school registration, book and yearbook fees, club fees, equipment, school lunch, labs fees, and similar types of education related fees for each minor child of the parties. Each parent shall promptly and timely contact the school each year at the beginning of the school year and arrange his/her payment of one-half of the fees and costs.

70. During the pendency of this action, Respondent refused to contribute to the school related expenses for the minor children. The Court addresses this inequity in the alimony and property division sections below.

ALIMONY AND RELATED PROVISIONS

71. The parties were married on June 10, 1997. Petitioner filed the petition in this matter on October 2, 2018. The Court will order alimony based on a marriage of 21 years, 4 months, beginning on the date of the filing of the petition and the separation of the parties. The award of alimony in this matter (including back alimony awarded as a part of this order) shall

terminate upon the death of either party or the remarriage or cohabitation of Petitioner, or January, 2040, whichever comes first.

72. The parties are members of the Church of Jesus Christ of Latter-Day Saints. As is common in the parties' religious culture, the parties agreed that Petitioner would be a stay-at-home mom and raise the kids, caring for the parties' four minor children, and Respondent would devote his time and efforts to his career, moving up the corporate ladder and providing for the family's financial needs.

73. The Court does not find credible Respondent's testimony that he asked the Petitioner to work full-time during the entirety of the marriage, in particular because that is not what occurred, but also given the Court's determination that Respondent's lack of candor with the Court during the pendency of this action and at trial and with ORS, renders much of his testimony not credible.

74. Respondent paid virtually every expense for the family, save a monthly "budgetary" amount of approximately $1,000 that he allotted to the Petitioner to buy groceries, gas, and incidentals.

75. The parties' marital standard of living included the payment in full each month any credit card balances, contribution to retirement accounts, savings, the payment of substantial tithing donations to the parties' religious institution, family vacations, and that Respondent paid all financial obligations including but not limited to mortgage, insurance, phones, vehicles, installment payments, kids' other needs such as lessons and activities, debts, savings, tithing,

retirement contributions, credit debts, family entertainment, family gifts, and family travel.

76. The amount of this budgeted amount allocated to the Petitioner fluctuated depending on whether the Respondent was "pleased" with the Petitioner.

77. During the marriage the Respondent used the giving or withholding of money to exact sex from the Petitioner, and ultimately this is one factor leading to the breakdown of the parties' marriage.

78. During the marriage, the Petitioner would ask questions about the parties' income and finances and the Respondent would respond by belittling the Petitioner and providing cryptic information or no information at all.

79. During the marriage, the Respondent controlled all of the parties' financial accounts and would not allow Petitioner access to the accounts. The Petitioner was not allowed to write checks on the one joint account the parties held, without the Respondent's permission. The Petitioner had to open a separate bank account to receive the allotted budgetary amount received from the Respondent.

80. The Respondent would provide Petitioner passwords to accounts and then change them so that when the Petitioner called the bank she did not have the correct password, and the bank would tell the Petitioner she had to get the password from the Respondent.

81. In September 2017, Respondent started a job at Dymicron, his self- described dream job. Respondent earned over $200,000 annually in this job, and continued to pay all expenses for the family and provide Petitioner with a fluctuating budgeted amount monthly.

82. The Court finds credible Petitioner's testimony that she routinely had to beg for extra money for food, for the girls' activities, and had to behave a certain way to receive extra money.

83. In 2018 the Petitioner approached the parties' church and asked that the church divert the money Respondent paid for "fast offerings" to the family for food.

84. Once Petitioner filed for divorce, the Respondent ceased providing the budgetary amount or many of the expenses that did not benefit him or affect his credit, such as the children's extra-curricular and school expenses, savings, tithing, travel, gifts, canceled the children's cell phones, canceled the Petitioner's access to the HSA account, canceled the children's vehicle insurance, canceled health insurance, temporarily discontinued retirement contributions, all as it related to the Petitioner and the children, but continued to fund retirement, tithing, donations, gifts, entertainment, maintaining zero credit debt (P-432), insurance, cell phone, installment payments on his school loans, access and use of HSA funds, and travel, for himself.

85. Respondent "substantially undermin[ed] the financial stability of [Petitioner] and the child[ren]." *See* Utah Code §30-3-S(l)(b)(iv).

86. The Court has considered the alimony factors set forth in Utah Code§ 30-3- 5(10).

87. "As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (10)(a)." Utah Code§ 30-3-S(10)(d); *Mullins* v. *Mullins,* 2016 UT App 77, ¶ 10.

88. "[A] court appropriately takes that standard of living into account by ‘assess[ing] the needs of the parties, in light of their marital standard of living.’ The ceiling on a recipient spouse's alimony award is represented by that spouse's needs, viewed in light of the marital standard of living." *Fox v. Fox,* 2022 UT App 88, ¶ 19 *(citing Rule v. Rule,* 2017 UT App 137, ¶¶ 10, 15, 19,402 P.3d 153 (quotations simplified)).

89. Based on the Court’s findings related to the parties' marital standard of living, education and incomes, the Petitioner's financial needs, the Respondent's ability to pay, and misrepresentations to the Court, the Respondent is at fault.

90. Petitioner's financial need for the time period October 2, 2018 through May 31, 2020 is as follows:

a. Based on the Petitioner's stated financial needs in her November 12, 2018 Financial Declaration filed with the Court (P-1), the Petitioner's and the minor children's demonstrated needs were $11,568.20, based on paragraph 11, adjusted as follows:

i. automobile insurance increased to $136.80 (Respondent's insurance amount of $410.30 for three cars, prorate - P-2);

ii. automobile loan of $350 removed as this was Respondent's vehicle;

iii. Gas increased to $116.50 (Respondent's amount-P-2);

iv. Internet increased to $81.74 (Respondent's amount - P-2);

v. Student loans reduced to $0 (Respondent's student loans);

vi. Eating program reduced to $0;

91. The Court finds the Petitioner had the ability to meet that need based on imputation of minimum wage at $1,256 monthly; and the receipt of child support in the amount of $1713.

92. The Court finds the Petitioner had an unmet need of $7,916.20.

93. The Court finds the Respondent's net monthly income for the time period October 2, 2018 through May 31, 2020 at $12,490.04. The Court finds that had Respondent disclosed the liquidated assets, he had available in 2018 $23,728.50 monthly.

94. The Court finds that the Respondent's financial needs for the time period October 2, 2018 through May 31, 2020 to be $6,954.80, based on a review of Respondent's filed Financial Declarations and testimony in court, adjusted from $16,710.18 as follows:

a. Real property maintenance reduced to $0 (Respondent did not incur these expenses);

b. Food and household supplies reduced to $500 (Respondent lived alone and traveled for work most weeks, work paying for food while on work travel);

c. Automobile insurance reduced to $136.80 (Respondent canceled Petitioner and the minor child's car insurance and only paid his own);

d. Automobile gasoline reduced to $100.00 (Respondent did not drive the minor children and traveled for work being reimbursed for gasoline and incurring no gas expenses while on out of state travel);

e. Electricity, Gas, Water/Sewer/Garbage, Telephone, Internet reduced to $0

(Respondent did not pay these amounts as he acknowledged in his August 22, 2022 filed Financial Declaration, canceling utilities at the marital residence and entering into a lease where these amount were included in the monthly amount, canceling Petitioner and the minor children's cell phones, and receiving a fringe benefit from his employer for his phone);

f. Rent increased to $2,500 but reduced to $0 (Respondent utilized dissipated marital assets to pay this amount);

g. Extra-curricular activities reduced to $0 (Respondent did not pay these amounts);

h. Health care expenses reduced to $0 (Respondent paid no medical expenses for the Petitioner or the minor children and presented no evidence of individual medical expenses);

i. Other insurance reduced to $0 (Respondent's employer paid these expenses);

j. Credit cards reduced to $0 (Respondent dissipated the marital estate to pay these amounts each month or received reimbursement from his employer for work related expenses);

k. 401(k) reduced to $0 (Respondent temporarily discontinued retirement contributions until he commenced employment at Eurofins);

l. Entertainment reduced to $75 (Equalizing the amount allocated to

Petitioner);

m. Donations - Tithing reduced to $0 as a voluntary expense;

n. Adding Child support of $1713.

95. Respondent has the ability to pay alimony in the amount of $3,822.30.

96. It is appropriate to consider whether ordered support should be based on equalization.

97. The Court finds that the "equalization of income-also termed 'equalization of poverty- is appropriate in situations in which one party does not earn enough to cover his or her demonstrated needs and the other party does not have the ability to pay enough to cover those needs." *Mullins v. Mullins,* 2016 UT App 77, ¶¶ 16-17 *(citing McPherson v. McPherson,* 2011 UT App 382, ¶ 15, 265 P.3d 839 (internal quotation marks omitted).

98. In equalizing the standard of living and incomes in setting alimony, our Court of Appeals in *Mullins* explained, "[I]f there's not enough money to support both families at the standard to which they're entitled and that they're used to, then I have to equalize the pain as much as I can. The court also looked at the relative financial situations of Wife and Husband and noted that Husband had a much more substantial income than Wife and should have paid her more than he did during the pendency of the proceedings." *Id.* at ¶¶ 17-18.

99. The parties have a significant disparity in incomes. During the marriage Respondent earned six figures, and the Petitioner was a stay-at-home mom earning nominal amounts on a sporadic basis that did not interfere with her caretaking obligations.

100. During the pendency of this action, despite the Petitioner immediately seeking and maintaining employment, given her 25-year absence from the work force, a significant disparity in the parties' incomes persists.

101. Even employed at her highest current earning potential, Petitioner earns $3,999 gross monthly, where Respondent earns nearly four times as much at $15,500 gross monthly.

102. During the pendency of this action Respondent misrepresented temporary fluctuations in income and failed to correct those representations to the Court on his Financial Declarations.

103. The Court finds that if it were to equalize incomes for the time period October 2, 2018 through May 31, 2020:

a. Respondent's income of $15,500 and Petitioner's imputed income $1,256 = $16,756.00, which is $8,378.00.

b. To Petitioner: $8,378 - $1,256 (income)= $7,122 - $2396 (child support) = $4,726.00 owing from Respondent to Petitioner, which leaves her with an unmet need of$3,190.20 each month, with Petitioner and the children's need at $11,568.20.

c. To Respondent $5,3681, and a shortfall of $1,586.70 with his need at $6,954.80. Calculated as follows: $12,490.04 - $4,726 (alimony)= $7,764.10 - $2,396 (child support) = $5,368.10.

104. The parties did not update their Financial Declarations until 2021. Accordingly, and based on the Court's findings, the Court will utilize the Petitioner's minimum wage

imputation of income at $1,256 gross, and Respondent's gross income at $15,500, and its analysis of the parties' monthly expenses for the purposes of alimony analysis for the time period June 1, 2020 through October 2021, with the following exceptions:

a. Child support is adjusted as of June 1, 2020 to recognize that at this time only two minor children remained. The Court finds the adjusted child support amount as of June l, 2020 is $2,110 monthly.

b. Petitioner's and the children's monthly financial needs did not materially change with the emancipation of the second minor child and remained $11,568.20.

c. The Petitioner had the ability to contribute to her monthly financial needs based on imputation of minimum wage at $1,256 monthly; and the receipt of child support in the decreased amount of $2,110.

105. Based on this analysis the Petitioner had an unmet need of $8,202.22.

106. The Respondent's net monthly income for the time period June l, 2020 to October 2021 at $12,490.04.

107. The Respondent's financial needs for the time period June 1, 2020 to October 2021 remained $6,954.80. During this time Respondent was not paying his child support obligation and waited until just before the September 15, 2021 hearing on Respondent's Motion to Amend Temporary Orders.

108. Respondent's ability to pay alimony based on the reduced child support amount for the time period is $3,425.30.

109. The Court finds that if it were to equalize incomes for the time period June 1, 2020 through September 30, 2021:

a. Respondent's income of $15,500 and Petitioner's imputed income $1,256 = $16,756.00, which is $8,378.00.

b. To Petitioner: $8,378 - $1,256 (income) = $7,122 - $2110 (child support) = $5,012.00 owing from Respondent to Petitioner, which leaves the Petitioner with an unmet need of $3,190.20 each month, with Petitioner and the children's need at $11,568.20.

c. To Respondent $5,368.10, and a shortfall of $1,586.70 with his need at $6,954.80. Calculated as follows: $12,490.04 - $5,012.00 (alimony) = $7,478.10 - $2,110 (child support) = $5,368.10.

110. The parties submitted updated Financial Declarations in October 2021. Based on the parties' filed Financial Declarations, earnings statements, income tax returns and testimony received at trial, the Court finds the parties' incomes, financial needs, and ability to meet needs and pay support as follows:

a. The Petitioner earned an income of $3,999 gross monthly (P-6) and Respondent earned an income of through June 30, 2022 of $76,067.67, or $12,678.00 monthly, but failed to produce a YTD earnings statement at trial reflecting any additional bonus and commission earnings. The Court finds based on the Respondent's historical earnings, it is fair and equitable to impute income to the Respondent of $15,500 gross

monthly.

b. Based on Petitioner's filed Financial Declaration Dated August 22, 2022 Petitioner and the two minor children's financial needs were $8,849.67, reflecting an increase of $285 monthly from her Financial Declaration dated October 21, 2021. Petitioner testified that for each of these Financial Declarations she reviewed 12-months' worth of credit card and bank statements, and invoices to determine precise amounts spent.

c. Petitioner had the ability to contribute to her financial needs in the amount of $3,131.00, and was receiving approximately $116 monthly from ORS in child support payments, leaving her unmet need at $5,602.70.

d. The Respondent's monthly expenses should be reduced from $11,508.60 to $6830 as follows:

i. Mortgage and HELOC reduced to $870 (Respondent testified he had not made the $2,400 mortgage payment and only the HELOC);

ii. Food and household supplies reduced to $600 (Respondent lives alone, does not exercise meaningful visitation with the minor children and travels weekly for work where his food is paid by his employer);

iii. Automobile loan reduced to $0 (Respondent receive car allowance from employers);

iv. Automobile gasoline reduced to $100 (Respondent is reimbursed for

gas for work and travels for work weekly);

v. Automobile maintenance reduced to $0 (Respondent testified he purchased a new truck);

vi. AT&T mobile reduced to $0 (Paid by employer);

vii. Child support reduced to $0 (Respondent did not pay the $116 as he demanded ORS apply it towards a "credit" to him for overpaid support);

viii. Health care insurance premiums reduced to $0 (Respondent insurance premium covered by employer);

ix. Health Care expenses reduced to $0 (Respondent paid no health care for Petitioner or the minor children and kept HSA funds);

x. Other insurance reduced to $0 (Respondent not paying);

xi. Entertainment reduced to $75 (allocating the same amount to Petitioner and Respondent);

xii. Gifts reduced to $0 (Respondent's 2018 Declaration allotted $0 to gifts);

xiii. Parent-time expenses reduced to $0 (Respondent exercised little to no parent-time during this time period. Petitioner testified that Respondent would not pay for items for the minor children when with him and they would call the Petitioner for money, relaying a specific embarrassing incident for the minor children when at the Target check-out line with Respondent).

111. The parties submitted updated Financial Declarations on August 22, 2022. Based on the parties' filed Financial Declarations, earnings statements, income tax returns and testimony received at trial, the Court finds the parties' incomes, financial needs, and ability to meet needs and pay support as follows:

112. The Respondent had the ability to meet his financial needs of $6830 based on his net income of $12,490.04, leaving $5660 in excess monthly income.

113. The Respondent has the ability to meet nearly the entirety of Petitioner's unmet need of $5,602.70.

114. Based on the Respondent's misrepresentations in his December 2018 Financial Declaration, the Commissioner awarded insufficient alimony and child support.

115. Based on the Respondent's misrepresentations regarding his monthly income and his monthly expenses, he objected to the Commissioner's Recommendations, and based on those misrepresentations this Court reversed the Commissioner and eliminated Respondent's alimony obligation.

116. Based on upon Respondent's misrepresentations regarding his income in his May and October 2021 Financial Declarations and in his Motion to Amend Temporary Orders filed April 2021 the Court again awarded insufficient alimony and child support, and allowed the Respondent to satisfy substantially of this support obligation by maintaining the mortgage and HELOC, which he testified he did not do.

117. The Respondent failed to timely or completely pay alimony and child support

during the pendency of this matter.

118. Because the Respondent failed to timely or completely pay child support once the Commissioner's Recommendation was modified, that the Petitioner was forced to enlist the services of ORS and that the Respondent was not truthful with ORS about his employment timing and income, or his failure to pay the mortgage for the marital residence as ordered by the Court.

119. Petitioner should be awarded alimony as follows:

a. For the time period October 2, 2018 through May 31, 2020, the amount of $4,726, monthly to equalize the parties' standard of living and incomes (20 months= $94,520);

b. For the time period June 1, 2020 through September 30, 2021, the amount of $5,012.00, monthly to equalize the parties' standard of living and incomes (16 months= $80,192);

c. For the time period October 1, 2021 forward, the amount of $5,433.70, monthly based on Respondent's ability to pay (10.1.21 through 12.31.22 is 15 months = $81,495).

d. Alimony will not terminate upon the statutory factors and will be permanent, for the length of the marriage, and not subject to reduction due to the Respondent's fault.

120. The Respondent shall pay his alimony obligation in two equal installments

payable no later than the first (1st) and fifteenth (15th) day of each month, or as directed by ORS if ORS collects alimony with child support.

121. Each party shall be responsible to pay for and maintain his or her own medical and dental insurance coverage and each shall be responsible for his or her own uninsured medical and dental costs once the Decree of Divorce is entered.

122. Respondent should maintain his whole/universal life insurance policy(ies) or term life insurance policies whichever is in effect and greater, irrevocably naming a Trust for the benefit of the parties' two remaining minor children and the Petitioner until such time as alimony and child support terminate. The parties will each appoint an immediate biological family member, to serve as Trustees, and contingent Trustees.

PROPERTY AND DEBT DISTRIBUTION

123. During their marriage, the parties acquired certain real and personal property which shall be divided between the parties as described below. During their marriage, the parties incurred certain debts and obligations which shall be allocated between the parties as described below. The party assuming a particular debt or obligation shall indemnify, defend, and hold the other party harmless therefrom.

124. The Court has broad discretion to equitably divide the marital assets, debts and obligations. *Taft* v. *Taft,* 2016 UT App 135, ¶ 32, *(citing Ouk* v. *Ouk,* 2015 UT App 104, ¶ 3).

125. While there is a general presumption that each party is "entitled to all of his or her separate property and fifty percent of the marital property[,]" *Goggin* v. *Goggin,* 2013 UT 16, ¶

47, "trial courts are not expected to view each item of marital property in isolation and divide each separately and the trial court is permitted to look at the marital property in its entirety and to apportion it in a manner that best facilitates a clean break between the parties and achieves a result that equitably divides the marital property as a whole." *Id* at ,r 54 (internal quotations omitted) (emphasis added) (citing *Boyer* v. *Boyer,* 2011 UT App 141, ¶ 10).

126. In this matter, exceptional circumstances exist that overcome the general presumption that marital property should be divided equally between the parties. *See Labon v. Labon,* 2022 UT App 103, ¶ 25 *(citing Taft v. Taft,* 2016 UT App 135, ¶ 33, 379 P.3d 890 (cleaned up)); *Riley v. Riley,* 2006 UT App 214, ¶¶ 27, 29 -30.

127. To achieve a fair, just, and equitable marital division in this case, the Court is not required to "equally" divide debts. While the court must make findings of which party is responsible for the payment of "joint debts, obligations, or liabilities of the parties contracted or incurred during marriage[,]....our law requires only 'a fair and equitable, not an equal, division of the marital debts.'" *See id (citing Sinclair v. Sinclair,* 718 P.2d 396,398 (Utah 1986) (per curiam).

128. The Respondent dissipated marital assets during the pendency of this action by among other things, liquidating marital assets and failing to account for their use other than his blanket testimony that every liquidated asset was used to pay the Marital Residence Mortgage, his rent, and "personal expenses." The Court does not find this testimony credible where the Petitioner testified and Respondent agreed, that on five occasions the LDS church made the parties' mortgage payment on at least 5 occasions, the Respondent testified he allowed the

mortgage to go into arrears, and he had not made payment since at least September 2021 when he received Covid relief from payment of the mortgage; Respondent was dishonest with ORS about his employment and payments of his support obligations; Respondent misrepresented his income on his filed Financial Declarations and to the Court, and provided no accounting of the use of the funds for "personal expenses."

129. Where Respondent dissipated assets and has acted obstructively in these proceedings, it is appropriate to value certain assets as of the date of separation or before, and that exceptions circumstances exist to divide the estate other than 50/50. *See Goggin v. Goggin,* 2013 UT 16, ¶ 49, *citing Parker v. Parker,* 2000 UT App 30, ¶ 13.

130. The parties' Myriad Genetics 401(k) was valued at $267,550.00 in 2017 (P-196). Respondent admits that he liquidated this account and $44,000 was used to make the first Kai-Zen payment sometime in 2018; transferred $148,739 into Vantage 3588 (P-193) on June 29, 2019 (valued at $151,540.90 before liquidation); transferred $37,414 into Vantage 7074 (P-195) on July 10, 2019; and transferred $37,414 into Vantage 8073 (P-194) on July 10, 2019. The Respondent testified at trial that he has since liquidated these accounts. Again, the Court does not find Respondent's testimony regarding the use of the funds to be credible as stated herein, and the Respondent produced no credible evidence at trial to account for the use of funds, which was his burden. The Petitioner testified that she neither knew of or approved of any of the transfers or liquidation and Respondent admitted he did not seek her input or approval. The Court finds therefore that one half the value of the 401(k) as of 2017 or $133,775.00 should be allocated to

Petitioner in the marital estate division. The Court finds that since the 401(k) has been liquidated, it is appropriate to award Petitioner an additional $133,775.00 in the value of the Marital Residence. *See Rayner v. Rayner,* 2013 UT App 269, ¶ 20 (citing *Goggin v. Goggin,* 2013 UT 16, ¶¶ 49, 53).

131. The Respondent's total denial of access to the marital estate is also an exceptional circumstance that justifies dividing the value of the marital estate other than 50/50.

132. During the pendency of these divorce proceedings, Respondent has denied Petitioner equal access to the marital estate save for three items: 1) court ordered payment to Petitioner of $30,000 at the commencement of the litigation to pay her legal fees, which she used to pay her legal fees, 2) insurance required payment of $7,200 related to the total payout of $14,400 for an accident involving a marital vehicle, and 3) court ordered possession of the Marital Residence (though she has been obligated to make all utility and maintenance payments related to the home). In 2021, Respondent was allowed to satisfy payment of his support obligation bringing the mortgage current as he had let is lapse into default, and making the payments monthly. He did not do so.

133. The Respondent remained in possession of all of the parties' retirement accounts, bank accounts savings accounts, securities, investments vehicles, life insurance, HSA funds, travel miles, time share, razors and other toys, guns, vehicles, and substantially all of the income generated by Respondent.

134. Respondent's denial of access is another exceptional circumstance. Our Supreme Court has made it abundantly clear that "it is improper to allow one spouse access to marital funds to pay for reasonable and ordinary living expenses while the divorce is pending, while denying the other spouse the same access. Allowing both spouses equal access to marital funds during the pendency of a divorce promotes the goal of a "fair, just, and equitable" distribution of marital property" *Dahl v. Dahl,* 2015 UT 23, ¶ 126, 345 P.3d 566, 600 *(citing Noble v. Noble,* 761 P.2d 1369, 1373 (Utah 1988)).

135. Durring their marriage the parties acquired a residence located at 8821 South Ivy Hills Circle, Sandy, Utah 84093 ("Marital Residence"). Petitioner shall be awarded all of the parties' right, title, and interest in and to the Marital Residence, subject to assuming the mortgage.

136. The Marital Residence should be valued at a gross value of $975,000 based on an average of the two most recent comparative market analysis dated October, 2021 and October, 2022, and taking into consideration a general reduction in value of homes in the Salt Lake City area in the past year. This results in net value of $468,342.16, reflecting the mortgage on the Marital Residence of $363,205.14 (8.10.22 Chase Statement, P-107), and HELOC with Elements of $143,452.70 (6.30.22 Elements Statement, P-89); and net of refinancing costs of 6% of $2,179.30. The Court finds that one-half the net equity to each party would be $234,171.08. However, because of the Court's dissipation findings regarding the 40l(k), Petitioner will be awarded an additional $133,775 of the net equity in the Marital Residence, for a total of

$367,946.08 of the $468342.16. The Court finds that the Respondent's equity in the home is $100,396.08, but is offset by Petitioner's one-half of assets listed herein.

137. During the pendency of this action the Respondent allowed the Chase Mortgage to go into arrears. Respondent shall bring the Chase Mortgage current within 60 days of the entry of the Decree of Divorce. Any amounts actually paid by Respondent to Chase for the mortgage should be credited towards Respondent's alimony arrearages.

138. The Petitioner should use her best efforts to refinance the Chase mortgage and remove Respondent's name from the Chase mortgage on or before January 1, 2024, but in no event within twenty-four (24) months of the entry of the Decree of Divorce or when Respondent brings the Chase mortgage current and the Elements HELOC has been removed from the Marital Residence, whichever is later. If Respondent fails to refinance the Chase Mortgage and remove the Elements HELOC as set forth herein, the Petitioner will not be obligated to refinance the Chase mortgage and Respondent will not receive his net equity. The Respondent shall remain responsible for the timely monthly payments of the Chase Mortgage until such time as he brings the mortgage current. The Petitioner shall be responsible for the costs of the refinance of the Marital Residence if and when that occurs.

139. The Court finds based on his testimony and that of his brother Ryan Henderson, that Ryan Henderson has taken over the Elements HELOC attached to the Marital Residence which was used for costs associated with assets owned by H-Big, LLC. Respondent should cause the removal of the Elements HELOC from the Marital Residence within six months of the entry

of the Decree of Divorce. Until the Respondent removes the Elements HELOC from the Marital Residence, he should continue to maintain the HELOC current and prevent any negative action against the Marital Residence related thereto.

140. During their marriage the parties acquired an interest in certain entities, namely M&H Enterprises and H-Big, LLC, and RSM Investment Club. Respondent used marital assets in part to fund these entities. Respondent engaged in these businesses with his brother Ryan Henderson and that he did not provide the Petitioner with any information regarding the assets, liabilities or business of these entities. Respondent should be awarded all of the parties' right, title, and interest in and to M&H Enterprises and H-Big, LLC, subject to assuming any and all debt and legal liability related thereto, and subject to Petitioner's one-half interest as set forth below.

a. M&H Enterprises should be valued at $100,000 representing marital funds that left this account and were transferred to H-Big, LLC (P-459). Petitioner is entitled to $50,000 from the Respondent for her interest in this asset. Petitioner shall receive additional equity in the Marital Residence to offset this amount.

b. H-Big, LLC should be valued at $0, based on the testimony of Respondent and his brother Ryan Henderson that the entity's assets are embroiled in litigation. Respondent shall assume, hold harmless, indemnify, and defend Petitioner against any claims related to the parties' interest in H-Big, LLC or related to any assets associated with H-Big, LLC specifically including the Jackson and Liberty properties.

c. RSM Investment Club should be valued at $12,500 based on Respondent's testimony and P-381. The Court finds that this asset is not capable of liquidation, and Petitioner should receive her one-half value of $6,250 in additional equity in the Marital Residence.

141. The Michael Henderson Trust should be dissolved and that each party should receive 50% of any assets held by the Trust, neither party providing any value of the asset at trial.

142. The parties Club Wyndham Time Share should be valued at its purchase price in 2015 of $15,000 (P-130), and all of the parties' right, title, and interest awarded to Respondent.

143. The parties' East Canyon Resort timeshare should be sold and the net proceeds divided equally between the parties, no value having been provided by either party at trial.

144. Petitioner shall be awarded all of the parties' right, title, and interest in and to the 2019 Toyota Corolla together with the indebtedness thereon, and Toyota Sequoia (driven by the minor child) free and clear of any indebtedness. The parties acknowledge and agree that the Toyota Corolla is worth approximately $2,800, and has loan debt of $8,084.00 attached thereto (P-7, P-130), and the Toyota Sequoia is worth approximately $0 and that the vehicle has no value.

145. Respondent shall be awarded all of the parties' right, title, and interest in and to the 2017 Fl50 Truck together with the indebtedness thereon. The parties acknowledge and agree

that the Fl 50 Truck is worth approximately $31,000, and has loan debt of approximately $31,635.83.

146. The party receiving the above-awarded vehicle shall assume responsibility of his or her own automobile payments, maintenance, expenses, and insurance.

147. Respondent should be awarded all of the parties' right, title, and interest in and to the 2013 Polaris RZR, 2005 Honda CRF150F, 2005 Honda CRF450X, 2002 Honda XRl00R, 2007Honda Enduro, 2008 Yamaha TT-Rl l0E, 2001 Honda XR200R, 1982 Honda XR200R, 2013 Single Axle Trailer, 2014 Xtreme Trailer-Black, together with any indebtedness thereon and at the values stated (P-7, **P-8,** P-130) The Court finds that the value of these assets was not established at trial.

148. Respondent should be awarded the parties' 6 handguns and 7 rifles at a total value of $3,374.00 (P-2), together with any indebtedness thereon.

149. Each party should be awarded the term life insurance policy in their name, together with any premium and payment obligations therefor, as set forth on P-130, rows 97-108.

150. The Kai-Zen life insurance policy should be awarded to the Respondent at a value of $141,284 as set forth on the Respondent's 10.22.21 Financial Declaration. Respondent engaged this investment and signed a contract prior to the parties' separation, without the knowledge or consent of the Petitioner. Despite Petitioner's request, Respondent did not produce the contract during discovery. The Petitioner testified that she did not know about this or other investments Respondent made and would not have approved of this use of their retirement funds

and that Respondent did not include the Petitioner in any financial decisions. The Court finds this testimony credible. Respondent testified that he determined to liquidate the parties' Myriad Genetics 40l(k)/IRA rollover, in part to fund the Kai-Zen life insurance investment. Respondent testified Petitioner knew and approved of this investment. The Court does not find Respondent's testimony credible given the Respondent's complete control of the parties' finances and his denial to Petitioner of any access to the marital estate once she commenced the divorce action, and his lack of candor with the Court on other matters as noted herein. The Court finds that because it is awarding the Petitioner half the value of the parties' 40l(k) as of the value date of 2017, she will not receive one-half the value of this asset.

151. Respondent invested approximately $6,000 in EtherDelta, $6,000 in Binance, $150 in BlokV, and $18,600 in Coinbase, all Crypto currencies. The Respondent testified that he was uncertain of the value of the investments but that they had lost substantial value. Petitioner testified, and the Court finds credible, that she was not told about or asked for consent for the $30,750 investment. The Respondent was unable to account for the use of the funds. Respondent dissipated these marital assets and that Petitioner is entitled to $15,375.00 as a part of the equalizing payment from Respondent to Petitioner.

152. Respondent should make an equalizing payment to Petitioner of $37,318.60, representing her one-half of M&H Enterprises of $50,000 and one-half of RSM Investment Club of $6,250, and $15,375.00 representing her one-half value of the Crypto currency investments, and as offset by Respondent's net equity in the Marital Residence of $34,306.40.

153. Each party shall be awarded his or her respective checking and savings accounts together with the funds in the accounts at the values stated in the statement most closely set at October 2, 2018 when Petitioner filed her Petition.

154. The Court finds based on Respondent's most recent earnings statement with Eurofins that he recommenced contributions to a 401(k) or other retirement vehicle. Any still existing retirement accounts shall be valued and divided through a Qualified Domestic Relations Order, the costs of which should be paid by the Respondent. The Respondent should cause the completion of the QDRO no later than 90-days after the entry of the Decree of Divorce.

155. Respondent dissipated significant air miles earned during the marriage. The Court was not presented evidence, however of the total miles or values to be able to divide the asset.

156. Each party shall assume and pay his or her debts and obligations incurred since the time of the separation of the parties as of October 1, 2018, and indemnify, defend, and hold harmless the other party therefrom.

157. Respondent shall assume, pay, hold harmless, and indemnify the Petitioner from his student loans with UHEAA or any other institution.

158. Respondent shall assume, pay, hold harmless, and indemnify the Petitioner from any "loans" as set forth in Exhibit P-401.

159. On October 15, 2019, Respondent came to Petitioner's work and asked to speak with her in his car in the parking lot about the parties' 2018 income taxes. Petitioner asked Respondent many questions about the taxes, and it was the day of the last extension and

Respondent pressured Petitioner into signing the tax returns without full disclosure to her. During that conversation Respondent told the Petitioner to file her own income tax returns moving forward. Petitioner testified that she did so from that point on. The Court finds, therefore that each party is responsible for any income tax obligations incurred and entitled to any refunds received from 2019 forward.

160. Each party shall be awarded his or her clothing, memorabilia and personal effects.

161. Prior to the trial the parties have equitably divided their furniture and furnishings and other personal property as set forth on Exhibit P-130. Accordingly, except as otherwise set forth herein, each party shall be awarded the furniture and furnishings in his or her possession.

162. Each party shall be awarded as his or her separate property, property acquired by gift, devise or inheritance, or as a gift from the other party during the marriage, including but not limited to Petitioner's engagement/wedding ring, and the Respondent's guns from his father.

TAX PROVISIONS

163. As long as there are two children the parties will each claim one child as a tax dependent and take the attendant tax credit for that child. When there is one child remaining as an exemption/credit that child shall then be alternated, with Petitioner taking the first year. Respondent must be current in his child support obligation at the end of any given tax year for which a child is claimed, if he is not Petitioner shall be entitled to claim and utilize the tax benefits associated with all three children. If one party is unable to take advantage of a tax deduction, exemption, or credit, the other party may utilize the deduction, exemption, or credit.

164. The Court will not revisit past tax filings given Respondent's failure to timely and completely pay support obligations, and since the Court finds that the Respondent liquidated marital assets, including retirement assets that incurred tax obligations, without Petitioner's consent, and the Petitioner did not benefit from or receive any of the funds. Respondent will be solely liable for any tax burdens for 2018 through 2022.

CONTEMPT

165. The Commissioner reserved the issue of Respondent's contempt for trial. The Court finds that the Petitioner has met her burden of clear and convincing evidence to establish Respondent's contempt that: 1) Respondent violated mutual restraining orders by discussing the divorce with the minor children, 2) canceled Petitioner's access to HSA funds, changed passwords and beneficiary designations, and failed to rectify the same as ordered by the Court, 3) failed to provide a meaningful and proper accounting as ordered by the Court, 4) failed to timely pay alimony and child support, 5) failed to pay certain marital and family debts.

166. The Court finds that to each reserved contempt issue, 1) Respondent knew what was required of him under the court order, 2) Respondent had the ability to comply, and 3) Respondent intentionally failed or refused to do so. *Summer* v. *Summer,* 2012 UT App 159, ¶ 8 quoting *Von Hake* v. *Thomas,* 759 P.2d 1162, 1172 (Utah 1988).

MISCELLANEOUS PROVISIONS

167. Each party shall execute such documents as may be necessary to transfer the property as awarded by the Court to the party entitled thereto.

168. The Court will determine Petitioner's entitlement to attorney fees and costs by separate affidavit.

169. Petitioner may have her maiden name of Yeats restored to her if she so desires.

EXECUTED AND ENTERED BY THE COURT AS INDICATED BY THE STAMP AND SEAL AT THE TOP OF THIS PLEADING*

CERTIFICATE OF SERVICE

On this 29th day of August, 2023, I hereby caused the foregoing **DECREE OF DIVORCE** to be served via email as follows:

Mitchell J. Olsen, Jr.
OLSEN & OLSEN
8142 S. State
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Attorneys for Respondent

/s/ *Marilyn Christensen*

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