

1996

Weideman v. Weideman : Brief of Appellant

Utah Court of Appeals

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Karen S. Peterson; Attorney for Appellant.

Tineke Van Dijk; Attorney for Appellee.

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TABLE OF CONTENTS

		<u>Page</u>
I.	A.	Table of Contents ii
	B.	Table of Cases, Statutes and other Authorities iii
II		JURISDICTION1
III		ISSUE FOR REVIEW 1
	A.	Statement of Issue 1
	B.	Standard of Review 2
IV.		STATEMENT OF THE CASE
	A.	Nature of the Case 2
	B.	Statement of the Facts 3
V.		SUMMARY OF ARGUMENT 8
VI.		ARGUMENT 9
VII		CONCLUSION14
VIII		REQUEST FOR ORAL ARGUMENT 15
IX.		CERTIFICATE OF SERVICE 17
X.		APPENDIX OF TRIAL EXHIBITSd

TABLE OF CASES , STATUTES AND OTHER AUTHORITIES

State Court Cases

Andersen v. Andersen,
757 P.2d 476 (Utah App. 1988)10, 11

Berger v. Berger,
713 P.2d 695 (Utah 1985)1

Bernham v. Bernham,
716 P.2d 781 (Utah 1986) 9

Colman v. Colman,
743 P.2d 782 (Utah Ct. App. 1987) 9

Fletcher v. Fletcher,
615 P.2d 1218 (Utah 1980)1

Howell v. Howell,
806 P.2d 1209 (Utah App. 1991)1

Jefferies v. Jefferies,
985 P.2d 835 (Utah Ct. App. 1995) 10

Jense v. Jense,
784 P.2d 1249 (Utah Ct. App. 1989) 2

McCrary v. McCrary,
599 P.2d 1248 (Utah Ct. App. 1987) 9

Morgan v. Morgan,
795 P.2d 684 (Utah App. 1990)1

Morgan v. Morgan II ,
854 P.2d 559 (Utah App. 1993)12

State Court Cases (Cont.)

Munns v. Munns,
790 P.2d 116 (Utah Ct. App. 1990) 14

Peck v. Peck,
738 P.2d 1050 (Utah App. 1987)10

Rappleye v. Rappleye,
855 P.2d 260 (Utah App. 1993)13, 14

Rasband v. Rasband,
752 P.2d 1331 (Utah Ct. App. 1989) 2

Shepherd v. Shepherd,
876 P.2d 429 (Utah App. 1994)12

Smith v. Smith,
793 P.2d 407 (Utah Ct. App. 1990) 2

Statutes

Utah Code Ann. § 78-2a-3(2)(i) (1995)1

Rules

Utah R.Civ.P. 52 (a)2

II. JURISDICTION

The Judicial Code of Utah states, “The Court of Appeals has appellate jurisdiction . . . over appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, visitation, adoption, and paternity.” Utah Code Ann. § 78-2a-3(2)(i) (1995).

The underlying matter was a divorce and the issue on appeal concerns property division; therefore, this Court has appropriate jurisdiction to consider this appeal.

III. ISSUE FOR REVIEW

A. Statement of Issue

Plaintiff is appealing the equal division of a marital asset which existed at the time of the Parties’ separation but which had been spent by the time of trial some twenty-seven months later. It is well established in Utah law that the marital estate should be valued as of the time of the divorce decree. *Fletcher v. Fletcher*, 615 P.2d 1218 (Utah 1980); *Berger v. Berger*, 713 P.2d 695 (Utah 1985); *Howell v. Howell*, 806 P.2d 1209 (Utah Ct. App. 1991). While acknowledging this general rule in *Morgan v. Morgan*, this Court held that such is not intractable; [h]owever, the trial court’s findings must be sufficiently detailed to explain its basis for deviating from the general rule. 795 P.2d 684, 688 (Utah App. 1990).

In the case before this Court, since the value of the marital asset of \$10,377 in a money market account on December 17, 1993, which had not been a part of a pension plan for more than four years, was zero at the time of the Decree of Divorce, Plaintiff contends that the

division of this marital asset by the trial court without making any findings to substantiate its deviation from established precedent was clearly erroneous, contrary to Utah law and an abuse of the court's discretion.

B. Standard of Review

Trial courts have considerable discretion in determining . . . property distribution in divorce cases, and will be upheld on appeal unless a clear and prejudicial abuse of discretion is demonstrated. *Rasband v. Rasband*, 752 P.2d 1331, 1333 (Utah Ct. App. 1989). Findings of fact in divorce appeals are subject to the clearly erroneous standard of review such that "due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." Utah R.Civ.P. 52 (a); *Jense v. Jense*, 784 P.2d 1249, 1251 (Utah Ct. App. 1989). Conclusions of law are reviewed for correctness and given no special deference on appeal. *Smith v. Smith*, 793 P.2d 407, 409 (Utah Ct. App. 1990).

IV. STATEMENT OF THE CASE

A. Nature of the Case

The underlying case giving rise to the issue on appeal is a divorce action. After twenty-six years of marriage, the Parties seeking to divorce separated on January 7, 1994 and Plaintiff filed for divorce at the end of that month. The matter came on for trial March 14, 1996, some twenty-six plus months from the Parties' separation.

Defendant claimed at trial that Plaintiff had a money market account containing over ten thousand dollars as of December 17, 1993, twenty-seven months earlier. He produced no evidence that any of

this asset remained at pretrial much less at trial because it did not. He produced no evidence that Plaintiff dissipated this asset improperly. To the contrary, Plaintiff testified at trial she spent this asset to maintain the mortgage, pay on marital debts and support herself.

Defendant produced evidence at trial that he paid a total of only \$100 on marital debt for the entire twenty-seven months of this action's pendency in spite of having been court-ordered on April 25, 1994 to maintain payments to six creditors, two of which were non-marital creditors on accounts in his name.

Without any evidence to justify its decisions, the trial court distributed the Parties' assets/liabilities all to Defendant's decided advantage and Plaintiff's decided detriment. The trial court awarded Defendant the equity in the marital property determined at the time of trial so that he received the benefit of the twenty-seven mortgage payments Plaintiff made without offset for having made all those payments herself. Then it awarded Defendant half the value, determined at the time of separation, of an asset Plaintiff had no choice but to consume because her income alone, especially after IRS garnishments, was insufficient to maintain the mortgage, the marital debts Plaintiff was court-ordered to pay in addition to the debts Defendant failed to pay that she paid and to support herself as well.

Plaintiff appeals the trial court's deviation, without making any findings to substantiate it, from established precedent as being clearly erroneous, contrary to Utah law and an abuse of the court's discretion.

B. Statement Of The Facts

In 1989, Marriott Inc., Plaintiff's employer sold its air catering

division to Caterair International and dispersed its pension holdings of its former employees to those employees. Plaintiff continued on in the employment of Caterair. Plaintiff received \$24,247 less \$2172.97 in Federal taxes withheld or a total of \$22,074.03 on February 22, 1990. (Appendix a-1 & a-2). She intended to roll this distribution over within the next year but paid on marital debts instead. By December 17, 1993, she had only \$10,377.26 of the original amount left in a money market account where she had placed it after it was disbursed. (Appendix a- 3).

The Parties separated in early January, 1994 and Plaintiff filed for divorce on January 31, 1994. (R-1 through 6). Plaintiff's net pay at that time had been approximately \$1000 per month. (R-27) Besides a mortgage payment of \$434 per month which Plaintiff continued to pay as she had always done, she initially had to pay over \$500 in overdue utility bills she discovered Defendant had not paid in order to prevent these services from being terminated. (R-26 & R-29 through 30, respectively). In addition, she continued to maintain payments on other marital debts, her own maintenance, transportation expenses, monthly utilities, attorney fees and court costs, etc. (R-27, 29 through 30).

Shortly after the Parties' separation the IRS began garnishing Plaintiff's wages. For March and April of 1994, her take home pay was approximately \$200 per month. (R-28). Also after the separation, she discovered Defendant had been lying about having paid property taxes he assured her he was paying and that none had been paid since 1990. Plaintiff paid \$1900 in March, 1994, just prior to the IRS' garnishment of her wages, for three years' back taxes on the marital residence. (R-

29). She had already just paid the IRS and the Utah tax commission \$500 each for back income taxes to try to prevent garnishments the IRS imposed anyway. (R-29). She had no choice but to rely on the monies in the money market account to pay on debts and her own maintenance. (R-166 through 167).

A Motion Hearing for Temporary Relief came before the court commissioner on April 25, 1994. In the minute entry of that hearing, the court ordered Plaintiff to maintain the mortgage and three obligations owed to Cypress Credit Union. (R-53). Defendant was ordered to maintain, among other obligations, \$100 monthly payments on the IRS tax liability as well as “make arrangements with the state tax commissioner to pay sum each month to prevent any further collection efforts against either party.” *Id.* Each was to “maintain those debts in their [sic] own names.” *Id.* Defendant was allowed to keep all his earned income and his AT & T pension income of \$213 per month to enable him to maintain the debts as ordered (no temporary alimony). *Id.*

At trial, Defendant produced only one bona fide receipt evidencing he made one \$100 payment to the IRS on July 14, 1994 and no other evidence of having maintained any other marital debt obligations as ordered. (Appendix a-6). At trial, he also produced a letter dated August 5, 1994 from the state tax commission indicating he had been granted a hardship status deferring any requirements of payment from him for twelve months during which time the interest and penalties would continue to accrue. (Appendix a-7). This did not prevent the state from going after and seizing Plaintiff's returns, however. Apparently Defendant neglected to file any income tax

returns since the last joint filing with Plaintiff in 1993 (not submitted on discovery requests). Most likely he did not file in order to avoid seizure of any refunds due him.

In the Second Amended Decree of Divorce, the court has ordered the parties to pay all marital debts owing out of the equity in the marital home. (R-365). Because interest and penalties continued to accumulate on the unpaid state taxes and all other marital debts Defendant was ordered to pay but did not, Plaintiff has been further penalized by having to “pay” half the penalties and interest that have accumulated on the unpaid debts Defendant was to have paid that were in his or both their names. Debts Defendant was ordered to maintain that were in Plaintiff’s name, Plaintiff maintained when she discovered Defendant was not paying on these. The penalties and interest plus the unpaid principal on these marital debts obviously amount to more than was initially owed on the debts in the first place, again to Plaintiff’s detriment while Defendant kept his pension and income to do with whatever he wanted, resulting in further serious inequity.

What with no help from Defendant toward paying marital debts in spite of having been court-ordered to do so, Plaintiff used all her income, all the remainder of the pension she had intended to roll over years earlier but paid on debts Defendant neglected since she received it both before and after the Parties’ separation, and still she had to borrow money from her family in order to live. (R-166 through 167). Plaintiff has been unable to repay the monies she has had to borrow from family.

Plaintiff testified at trial that she had no control of Marriott’s dispersion of her pension funds. (Transcript-3 @ 10-12 & Transcript-5

@ 13-14). She testified that Defendant was unemployed and unable to make house payments at the time, so these funds were used to pay marital debts and that although Defendant promised to replace them for “their retirement,” he never did. (Transcript-1 @ 10-17). Plaintiff also testified that she had over ten thousand dollars remaining in a money market account prior to the Parties’ separation. (Transcript-3 @ 13-14 & Transcript-7 @ 7). Plaintiff said that she paid marital debts with that money and that she had none of it left. (Transcript-3 @ 16-19; Transcript-7 @18-25; Transcript-8 @ 1-6 & 25 & Transcript-9 @1-10) *also see* (R-166 through 167).

At trial, no testimony was solicited from Defendant (nor from any other witness) that Plaintiff did not, in fact, pay these debts as she testified. Credibility of conflicting testimonies is not nor was at issue. No evidence was produced that Plaintiff had/has hidden this money nor dissipated these funds improperly not acted obstructively, yet the trial court treated her as though she had done one or more of these without any evidence of wrongdoing before it and without any findings to substantiate such so as to support its deviation from established precedent.

The trial court awarded Defendant all his retirement and pension income. (R-364). He was allowed to keep his Brasher’s retirement valued at approximately \$2000 at the time of trial. The value of Defendant’s AT & T pension depends solely on how many more years he lives to collect the \$213 per month he currently receives and has been receiving even before the Parties separated. He has enjoyed the exclusive use of these monthly payments for three years since the separation amounting to approximately \$7500. Although the court

awarded Plaintiff her presently accumulated pension plan valued at approximately \$16,000 at trial, before she can begin to draw on her retirement, Defendant will have realized four times the three-year payout he has already received. Yet the Court then awarded half the amount remaining as of December, 1993 from Plaintiff's Marriott reimbursed funds (which had not been a pension plan for four years by the time the parties separated and that she was compelled to spend to pay the Parties' debts and to support herself) to Defendant in addition to the inequitable division of the Parties' retirement monies.

Rather than punishing Defendant's disregard of its orders, the trial court rewarded Defendant's contempt for its orders by obviously favoring him in its final decree. Plaintiff obeyed the orders as directed by the trial court yet she was significantly shortchanged. The court provided no reason for this inequitable distribution of the Parties' asset and debt allocation. Its orders appear capricious and a clear abuse of its discretion.

V. SUMMARY OF ARGUMENT

The trial court deviated from the standards set by this court for determining the value of a certain marital asset, namely a money market account that contained more than ten thousand dollars just prior to the Parties' separation but did not exist at the time of trial twenty-seven months later, by awarding half the monies determined at the time the Parties separated, to Defendant. Although according to these standards, any such deviation should have been supported by sufficiently detailed findings to explain its basis for deviating from the general rule, the trial court provided no, much less sufficiently detailed

findings for its deviation.

On the contrary, all evidence and testimony at trial supported Plaintiff's position that she did not dissipate, hide nor act obstructively regarding this asset but that she was compelled to spend the asset on (1) maintaining debts she and Defendant were court-ordered to pay (something he did not do); (2) paying all the mortgage payments on the marital property for which she is to receive no offset even though Defendant benefits from her twenty-seven payments in significantly increased equity (mortgage reduced by Plaintiff's payments) at the time of divorce; (3) and supporting herself. The trial court provided Plaintiff no allowance for self-maintenance costs while Defendant freely spent all his income without having to account for his failure to maintain those debts he was ordered to pay.

VI. ARGUMENT

In *Bernham v. Bernham*, this Court held that trial courts in divorce proceedings are given considerable discretion in adjusting the parties' financial and property interests. 716 P.2d 781, 782 (Utah 1986). The trial court's actions are presumed valid, and to overcome that presumption, the appealing party must demonstrate that there was "misunderstanding or misapplication of the law resulting in substantial and prejudicial error, or that the evidence clearly preponderated against the findings, or that such a serious inequity has resulted from the order as to constitute an abuse of the trial court's discretion." *Colman v. Colman*, 743 P.2d 782, 789 (Utah Ct. App. 1987) [quoting *McCrary v. McCrary*, 599 P.2d 1248, 1250 (Utah Ct. App. 1987)]. Plaintiff argues that the trial court misapplied the law

resulting in substantial and prejudicial error and that a serious inequity has resulted from its orders as to constitute an abuse of the trial court's discretion.

In *Peck v. Peck*, this Court held that although assets are generally valued at the time of the divorce decree, the trial court may value the property at an earlier date where one party has dissipated an asset, hidden its value or otherwise acted obstructively. 738 P.2d 1050, 1052 (Utah Ct. App. 1987). Likewise, this Court upheld the trial court's deviation to value the marital estate at an earlier time than at trial in *Jefferies v. Jefferies* because the trial court found that the husband's transfer of money from the marital estate to the children dissipated marital assets in an attempt to hide these from the wife. 985 P.2d 835, 838 (Utah Ct. App. 1995).

No allegations were asserted at any time during the pendency of the present action nor was evidence introduced at trial to suggest Plaintiff "dissipated" this asset, hid its value or otherwise acted obstructively. In fact, to the contrary, Plaintiff testified at trial as to how this money was utilized. Defendant did not challenge Plaintiff's testimony concerning this asset, how it was used nor did he produce any evidence that Plaintiff might have hidden this asset from him at the time of trial. Defendant did not dispute that this asset was gone.

In *Andersen v. Andersen*, the facts adduced at trial indicated that defendant held an IRA worth over \$8000 on July of 1986. Two months later and after the parties separated, defendant cashed the IRA, taking over \$4000 and transferring \$4000 to another bank certificate. Within a month after that, he cashed the \$4000 certificate. At trial held approximately six months later, defendant testified only \$3300

remained of that IRA “but did not explain disposition of the remainder of the funds.” 757 P.2d 476, 479 (Utah App. 1988). This Court remanded this issue to the trial court to determine how the money was spent.

Over a period of twenty-seven months in the current case, Plaintiff used a money market account of about twice the amount that defendant in *Andersen* consumed in only seven months; however, she testified how those monies were expended. *Id.* The Court made no finding, as it did in *Andersen*, as to the disposable income of the parties after paying the court-ordered marital debts and in Plaintiff’s case, the taxes and debts Defendant failed to pay. *Id.* It is only equitable that an individual be allowed at least something on which to live. Where Plaintiff was forced by garnishment to pay Defendant’s court-ordered obligations while trying to maintain those she was ordered to pay and those he was ordered to pay and did not, that she would have to rely on something other than her income (i.e. the money market account and loans from family members) to pay on the marital debts as well as pay for her own maintenance should have been obvious to the trial court.

In its decision to divide a non-existent asset and only allow Plaintiff an offset against marital debt paid and holding mortgage payments would not be considered marital debt, the trial court failed to provide Plaintiff any allowance for even marginal living expenses. It placed no such burden on Defendant. He was allowed to keep all his earnings and pension benefits he received during this period to spend however he wished during these same twenty-seven months without paying, as ordered, on the marital debts. Then he was allowed to enjoy

the increased equity in the marital home that Plaintiff bought down by maintaining the mortgage, again without any findings to justify this disparate and inequitable treatment.

In *Morgan v. Morgan II*, this Court held that it is well settled that the present value . . . of retirement accounts accrued during the marriage, are marital assets and. . . should be valued as of the time of the divorce and should be equitably divided. 854 P.2d 559 (Utah App. 1993). The value of Appellant's retirement account with Marriott was zero on February 21, 1990. It was still zero at the time of trial. Plaintiff had no Marriott retirement account valued at \$10,377 as of December 17, 1993. Yet the trial court held this to be a retirement account to be divided as a retirement benefit. This characterization is not consistent with the facts and therefore clearly erroneous.

In *Shepherd v. Shepherd*, plaintiff challenged the trial court's decision to value the marital estate at the time of separation rather than at the time of trial. 876 P.2d 429, 433 (Utah App. 1994). There the trial court made detailed findings that plaintiff not only used more of the marital assets than authorized but had seriously depleted the marital estate. Based on these detailed findings, this Court held that the trial court did not abuse its discretion in valuing the marital estate at the date of separation rather than the date of trial. *Id.*

Not only did the trial court use a date other than the date of divorce to determine the value of a single marital asset without supporting its decision with any findings of fact explaining its deviation from the general rule, but assuming it may have deviated because it found Plaintiff used all the asset, it made no finding that she did so wrongfully. Plaintiff maintains that it should have used the same date

to evaluate all the marital estate rather than arbitrarily and capriciously picking and choosing which assets were to be evaluated at the time of separation versus at the time of divorce without providing any justification in its findings for obviously favoring Defendant financially by selecting different times to value different marital property as it did.

The trial court's decision has resulted in Plaintiff's being required to pay for half an asset she no longer has while she was compelled to use all her assets including the expended money market account to significantly reduce the mortgage on the marital real property and increase Defendant's equity based on her buy down of the mortgage and the inflationary increase in the property's value over twenty-seven months. However viewed, this decision requires Plaintiff to pay twice and Defendant benefits even though he came before the court with unclean hands by not paying, other than making a token attempt, on the marital debts as ordered. The result is neither equitable nor substantiated by the trial court's findings.

Finally, in *Rappleye v. Rappleye*, this court determined that the evidence before the trial court indicated that a certain cash account had a negative balance at the time of trial but that that court valued the account at the time of the parties' separation two years prior to trial without any subsidiary findings to support its determination [emphasis added]. 855 P.2d 260, 262 (Utah App. 1993). This Court held that because such valuation is contrary to the general rule that the marital estate is valued at the time of the divorce decree, the trial court's decision was vacated and the issue remanded to the trial court for more detailed findings regarding the date at which the account should

be valued, as well as its basis for valuing it as of such date [emphasis added]. *Id.* at 263.

As in *Rappleye*, Plaintiff maintains the trial court, without justification, erred by establishing the value of a marital asset twenty-seven months before trial when that asset did not exist at trial while providing no findings of fact, much less sufficiently detailed findings, to explain its basis for such a deviation. *Id.*

VII. CONCLUSION

According to its decision in *Munns v. Munns*, this Court has held that the trial court is allowed considerable discretion regarding the division of marital property, as long as it exercises its discretion in accordance with the standards set by the appellate courts [emphasis added]. 790 P.2d 116, 118 (Utah Ct. App. 1990). Those standards include that the marital estate should be valued as of the time of the divorce decree and any deviations from this general rule must be substantiated by sufficiently detailed findings to explain its basis for deviating from that general rule.

In the present case, the value of some of the marital assets were determined as of the time of the divorce, but another was determined as of the time of separation resulting in substantial prejudice favoring Defendant to Plaintiff's detriment and resulting in a serious inequity as to the division of the Parties' assets and liabilities. The trial court made no findings and Defendant produced no evidence of wrongdoing by Plaintiff to justify the court's deviations.

Plaintiff seeks relief as a result of this appeal from the burdens imposed on her by the trial court's apparently arbitrary decision to

pick and choose when to value certain assets and liabilities so that the Parties enjoy a truly equitable property division as a result of their divorce. She maintains the value of all the marital assets, the marital estate, should either be determined as of the time of divorce or all the assets should be valued as of the time of separation.

If the marital estate is valued at the time of divorce, the money market account is zero and the Defendant benefits from the increased equity in the marital home due to inflation and the mortgage buy-down by Plaintiff. If the marital estate is valued at the time of separation, Defendant receives half the money market account but not the benefit of Plaintiff's twenty-seven mortgage payments. Either of these determinations is far more equitable than what the trial court did.

Plaintiff is not guilty of depleting the marital estate over the pendency of this action. In fact, she is the only Party who made any attempt to preserve it (and she went without even basic necessities during this time in order to do so). Defendant, on the other hand, did not pay on the debts he was ordered to maintain thereby depleting the marital estate through increased penalties and interest both Parties have been ordered to pay.

VII. REQUEST FOR ORAL ARGUMENT

Plaintiff does not believe that oral argument would materially assist the Court's consideration of this matter. She can add little more than they has already put into writing within this document.

DATED this 25th day of November, 1996.



Karen S. Peterson
Attorney for Appellant/Plaintiff

IX. CERTIFICATE OF SERVICE

I hereby certify that I served two true and correct copies of the foregoing brief on Tineke Van Dijk, attorney for Appellee/Defendant, by hand-delivering them on this 25th day of November, 1996, to her office located at 243 East 400 South, #301, Salt Lake City, Utah 84111.

Karen A. Peterson

APPENDIX

SELECTED TRIAL EXHIBITS

001
WITHDRAWAL REPORT

MARRIOTT CORPORATION EMPLOYEES
PROFIT SHARING, SAVINGS AND
RETIREMENT PLAN AND TRUST

PAGE 613
02/21/90

MEIDEMAN, V A
PARTICIPANT STATUS R
WITHDRAWAL CODE LC

528-60-1267

EMPLOYMENT DATE 04/20/82 PARTICIPATION DATE 04/23/83 TERMINATION DATE 12/15/89 PAYROLL TYPE R DIVISION 21301

PORTION	OPENING BALANCE	FORFEITED AMOUNT	VESTED AMOUNT	WITHDRAWAL AMOUNT	CLOSING BALANCE
SAVINGS FUND					
BASIC BEFORE-TAX SAVINGS	4,587.02	0.00	4,587.02	-4,587.02	0.00
BASIC AFTER-TAX SAVINGS	4,715.02	0.00	4,715.02	-4,715.02	0.00
ADDL BEFORE-TAX SAVINGS	2,598.06	0.00	2,598.06	-2,598.06	0.00
ADDL AFTER-TAX SAVINGS	367.53	0.00	367.53	-367.53	0.00
PRIOR COMPANY ACCOUNT	11,979.38	0.00	11,979.38	-11,979.38	0.00
TOTAL SAVINGS FUND	24,247.01	0.00	24,247.01	-24,247.01	0.00

DISTRIBUTION DATA

TOTAL VALUE OF DISTRIBUTION	24,247.01
NET EMPLOYEE CONTRIBUTIONS	(2,517.19)
UNREALIZED APPRECIATION	(0.00)
TOTAL TAXABLE AMOUNT	21,729.82

TAX INFORMATION

TOTAL TAXABLE AMOUNT	21,729.82
CAPITAL GAIN AMOUNT	0.00
ORDINARY INCOME AMOUNT	21,729.82

a-1



MARRIOTT CORPORATION
EMPLOYEES PROFIT SHARING, SAVINGS
AND RETIREMENT PLAN AND TRUST
WASHINGTON, D.C. 20058

CK NO 000114550
CK DATE 02/22/90

528-60-1267
V A WEIDEMAN

DISTRIBUTION STATEMENT

AFTER TAX	2517.19
BEFORE TAX	6020.13
INTEREST	3722.31
COMPANY	11979.38
FED TAX	2172.98-
TOTAL DISTRIBUTION	\$22,074.03

ALL AMOUNTS REFLECTED ON THIS STATEMENT, EXCLUDING AFTER-TAX SAVINGS, ARE CONSIDERED TAXABLE INCOME. SEE ENCLOSURE FOR FURTHER TAX INFORMATION.

Marriott
corporation

EMPLOYEE PROFIT SHARING, SAVINGS
AND RETIREMENT PLAN AND TRUST
WASHINGTON, D.C. 20058

00114550

15 3
540

PAY
TO
THE
ORDER
OF

528-60-1267
V A WEIDEMAN
3640 SOUTH 5750 WEST
WEST VALLEY CITY UT 84122

DATE			
M	D	Y	
02	22	190	

NET AMOUNT
***22,074.03

VOID AFTER 6 MONTHS PAST DATE OF ISSUE

THE RIGGS NATIONAL BANK
MAIN OFFICE, WASHINGTON, D.C.

William J. Shaw

⑈00114550⑈ ⑆054000030⑆ 03⑈08206994⑈

ZIONS FIRST NATIONAL BANK

Member Federal Deposit Insurance Corporation

MONEY MARKET ACCOUNT

V ARLENE WEIDEMAN
 ARLENE V THOMPSON
 6181 CEDAR ST
 MURRAY UT 84107-7033

0 H
P 29

ACCOUNT NUMBER
014-603260
STATEMENT DATE
12/17/93
PAGE NO.
1

BALANCE LAST STATEMENT	CHECKS AND NUMBER OTHER CHARGES	AMOUNT	DEPOSITS NUMBER	AMOUNT	BALANCE THIS STATEMENT
10,352.14	0	.00	1	25.12	10,377.26

INTEREST PAID YEAR TO DATE 1993335.89
 CHECKING ACCOUNT TRANSACTIONS
 DATE AMOUNT TRANSACTION DESCRIPTION
 12/17 25.12+ INTEREST

DAILY BALANCE SUMMARY

DATE.....BALANCE DATE.....BALANCE DATE.....BALANCE
 12/17 10,377.26

ANNUAL PERCENTAGE YIELD EARNED 2.72%
 NUMBER OF DAYS IN PERIOD 33

055612



Department of the Treasury
Internal Revenue Service

OGDEN, UT 84201

** IF YOU HAVE ANY QUESTIONS, **
** REFER TO THIS INFORMATION: **
NUMBER OF THIS NOTICE: CP-521
DATE OF THIS NOTICE: 01-18-95
TAXPAYER IDENT. NUM: 528-44-9698
TAX FORM: 1040
TAX PERIOD: 12-31-90



DUANE G & V ARLENE WEIDEMAN
1634 THORNHILL DRIVE APT 208
SALT LAKE CITY UT 84123-5936342



FOR ASSISTANCE CALL: 1-800-829-1040

YOUR NEXT PAYMENT IS DUE SOON

Your next payment of \$100.00 is due on 01-28-95 as required by your installment agreement. Please tear off the payment voucher from the end of this notice and send it in the enclosed envelope.

The current status of your account is shown below. We apply installment payments to tax periods in the order we assessed the periods.

FORM NUMBER	CAF	TAX PERIOD ENDED	AMOUNT
1040	0	12-31-90	\$170.22
1040	0	12-31-92	\$430.51

*Paid Per Money order
2/10/95*

Payment due \$100.00

Total balance owed including penalties and interest:

\$600.73

Please pay your future installments on time. If you don't we may have to cancel your installment agreement.

The federal income tax is a "pay-as-you-go" tax. You must pay the tax as you earn or receive income during the year. There are two easy ways to do this:

1. WITHHOLDING: If you are an employee, your employer will withhold income tax from your pay. Tax is also withheld from other types of income -- including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the Internal Revenue Service in your name.

063888



Department of the Treasury
Internal Revenue Service
OGDEN, UT 84201

** IF YOU HAVE ANY QUESTIONS, **
** REFER TO THIS INFORMATION: **
NUMBER OF THIS NOTICE: CP-521
DATE OF THIS NOTICE: 03-15-95
TAXPAYER IDENT. NUM: 528-44-9698
TAX FORM: 1040
TAX PERIOD: 12-31-90



DUANE G & V ARLENE WEIDEMAN
1634 THORNHILL DRIVE APT 208
SALT LAKE CITY UT 84123-5936342

FOR ASSISTANCE CALL: 1-800-829-1040

YOUR NEXT PAYMENT IS DUE SOON

Your next payment of \$100.00 is due on 03-28-95.

The current status of your account is shown below. We apply installment payments to tax periods in the order we assessed the periods.

FORM NUMBER	CAF	TAX PERIOD ENDED	AMOUNT
1040	0	12-31-90	\$71.64
1040	0	12-31-92	\$439.74

Payment due \$100.00

Total balance owed including penalties and interest: \$511.38

*Paid 100.00
Per money order Bal 411.38*

The federal income tax is a "pay-as-you-go" tax. You must pay the tax as you earn or receive income during the year. There are two easy ways to do this:

1. WITHHOLDING: If you are an employee, your employer will withhold income tax from your pay. Tax is also withheld from other types of income -- including pensions, bonuses, commissions, and gambling winnings. In each case, the amount withheld is paid to the Internal Revenue Service in your name.

If too little tax is being withheld from your wages to pay the taxes you will owe at the end of the year, you should file a new Form W-4, Employee's Withholding Allowance Certificate, with your employer to change the amount of withholding.



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Department of the Treasury
Internal Revenue Service

OGDEN UT 84201

IF YOU HAVE ANY QUESTIONS, REFER TO THIS INFORMATION:

DATE OF NOTICE: 06-15-94 521
TAXPAYER IDENTIFYING NUMBER: 528-44-9698 LV

FORM	TAX YEAR ENDED	DOCUMENT LOCATOR NUMBER
1040	12-31-90	94139009
1040	12-31-92	94139009

DUANE G & V ARLENE WEIDEMAN
PO BOX 701766
WEST VALLEY UT 84170-1766668

CALL: 1-800-829-1040

OR

WRITE: CHIEF, TAXPAYER ASSISTANCE SECTION
INTERNAL REVENUE SERVICE CENTER

OGDEN UT 84201

*Paid 100.00
Per money order*

IF YOU WRITE, BE SURE TO ATTACH THE BOTTOM PART OF THIS NOTICE

THIS IS TO REMIND YOU THAT YOUR MONTHLY PAYMENT REQUIRED BY YOUR INSTALLMENT AGREEMENT IS DUE ON 06-28-94, TO BE APPLIED AS FOLLOWS:

FORM NUMBER	CAF	TAX PERIOD ENDED	AMOUNT
1040	0	12-31-90	\$358.09
1040	0	12-31-92	\$399.13

PAYMENT DUE \$100.00

TOTAL BALANCE OWED INCLUDING PENALTIES AND INTEREST \$757.22

PLEASE RETURN THE BOTTOM PART OF THIS NOTICE WITH YOUR PAYMENT. AN ENVELOPE IS ENCLOSED FOR YOUR CONVENIENCE. THANK YOU FOR YOUR COOPERATION.

ENCLOSURES:
ENVELOPE

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL OR WRITE-SEE THE INFORMATION IN THE UPPER RIGHT CORNER OF THIS NOTICE. TO MAKE SURE THAT IRS EMPLOYEES GIVE COURTEOUS RESPONSES AND CORRECT INFORMATION TO TAXPAYERS, A SECOND IRS EMPLOYEE SOMETIMES LISTENS IN ON TELEPHONE CALLS. KEEP THIS PART FOR YOUR RECORDS. V CUT HERE V

10-532921764

IRS PAYMENT

PURCHASER'S COPY

RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

NOT NEGOTIABLE

10-53292176

PAY TO THE ORDER OF
ONLY ONE HUNDRED DOLLARS AND 00 CENTS

JUL 14 1994

ST-100532921764 STORE-360

JUL 14 1994 ONE HUNDRED DOLLARS AND 00 CENTS

INTERNAL REVENUE SERVICE 94139009

Issued by American Express Travel Services Company, Inc., Englewood, Colorado
PURCHASE AGREEMENT:
refund a lost or stolen American Money Order at the time of purchase, and (2) you report the loss at that time to American Express in writing immediately.

2-0

DUANE G & V ARLENE WEIDEMAN
We agree that American Express need not pay payment on any Money Order unless (1) you fill in the "TO THE ORDER OF" line on the top of the Money Order, and (2) you report the loss at that time to American Express in writing immediately.

F



STATE OF UTAH
UTAH STATE TAX COMMISSION

Michael O. Leavitt
Governor
Olene S. Walker
Lieutenant Governor

W. Val Oveson, Chairman
Roger O. Tew, Commissioner
Joe B. Pacheco, Commissioner
Alice Shearer, Commissioner
Rodney G. Marrelli, Executive Director

August 5, 1994

DUANE G WEIDEMAN
P O BX 701766
S L CITY UT 84170-1766

RE: ACCOUNT NO.(S) 528-44-9698

Dear Sir/Madam:

This letter is to inform you that your Income tax liability for the period(s) 1990, 1991, 1992 has been placed in a hardship status with the Tax Commission.

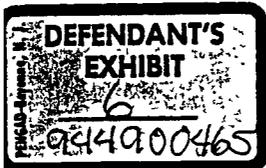
This means that we will not actively pursue collection of these delinquent taxes over the next twelve months, at which time we will reevaluate your ability to pay your tax liability.

Although you will not be receiving regular notices of delinquency, interest will continue to accrue at the statutory rate on the unpaid balance. Any tax refunds you are entitled to will be credited to the delinquency and any tax liens that have been filed will remain in effect until the tax liability has been satisfied.

Respectfully,

Kim Carlston
Tax Compliance Agent
Collection Division
(801) 297-6210

UN ss



Blaine W. Smith, Director • Collections
210 North 1950 West • Salt Lake City, Utah 84134
Telephone (801) 297 6300 • Fax Number (801) 297 6358

