

2006

Kae Jensen v. David Leon Jensen : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

KAE JENSEN,

Petitioner/Appellee,

v.

DAVID LEON JENSEN,

Respondent/Appellant.

APPELLEE'S BRIEF

(Oral Argument Requested)

Appellate Case No. 044600066

20061104

Appeal from the Sixth District Court, Sevier County, Utah
Judge David L. Mower Presiding

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STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to Utah Code Ann. § 78-2a-3 (2) (h).

STATEMENT OF THE ISSUES AND STANDARD OF REVIEW

I. Whether the trial court erred in holding that Appellee should be awarded half of the increase in equity in A & D Contractors, Inc. The trial court's property division in a marital dissolution proceeding is reviewed under a "clear abuse of discretion" standard. *Elman v. Elman*, 2002 UT App 83, ¶ 17, 45 P.3d 176.

II. Whether the trial court's implicit finding that Appellant owns one-half of the shares of A & D Contractors, Inc. was in error. The trial court's factual findings are reviewed under the "clearly erroneous" standard. Utah Rule of Civil Procedure 52(a).

III. Whether the trial court's attorney's fees award to Appellee was in error where it failed to make specific findings to support the award. The trial court's decision to award attorney's fees is reviewed for abuse of discretion, and whether the trial court made adequate findings to support that award is reviewed for correctness. *Davis v. Davis*, 2003 UT App 282, ¶ 14, 76 P.3d 716.

STATEMENT OF THE CASE

I. Nature of the Case

Appellant, David Leon Jensen ("Mr. Jensen"), and Appellee, Kae Jensen Olson ("Ms. Olson"), were divorced effective May 16, 2005, pursuant to a bifurcated decree of divorce entered in the Sixth Judicial District Court of Sevier County. R. at 261 (Bifurcated Decree of Divorce). Further proceedings were held to resolve issues

pertaining to the equitable distribution of the marital property and debt. At trial, the main dispute was how the trial court should divide the parties' most valuable asset, shares of a closely-held, family-operated construction business, A & D Contractors, Inc. ("A & D" or "the Company"). The trial court's decision on that issue is now the subject of this appeal.

II. Statement of Facts

Mr. Jensen and Ms. Olson were married for 17 years,¹ during which time they had one child, who is still a minor. R. at 375-76: ¶¶ 4-5 (Supplemental Findings and Conclusions). Throughout the entire marriage, Mr. Jensen was employed full time by A & D. *Id.* at ¶ 11. Ms. Olson was the primary homemaker and caretaker of their child. *Id.* at ¶ 6. Beginning in 1991, she also worked part time as a massage therapist and cosmetologist. *Id.* at ¶¶ 13-15.

At the time of the marriage, Mr. Jensen owned 3,333 shares of the 50,000 total shares of A & D. *Id.* at ¶¶ 31, 39. The remaining shares were owned by his brother, Mark Jensen ("Mark"), their parents, Clara ("Clara") and Delbert Jensen as joint tenants, and their uncle, Arnell Jensen ("Arnell"). *Id.* at ¶¶ 32, 39. Prior to the marriage, Mark and Mr. Jensen entered into an Escrow Sales Agreement ("the Agreement") with their uncle Arnell to buy his 20,000 shares for \$80,000. *Id.* at ¶ 34. At this time, Arnell's shares were assigned to Mark and Mr. Jensen as tenants in common. *Id.* at ¶ 38. Although the Agreement called for Mark and Mr. Jensen to make installment payments, A & D made

¹ Mr. Jensen erroneously states that the parties were married in November of 1998. The parties were married on November 11, 1988. R. at 376: ¶ 2 (Supplemental Findings and Conclusions).

the payments to Arnell on their behalf. *Id.* at ¶¶ 35-36. Arnell's shares were fully paid for during the marriage. *Id.* at ¶¶ 37-38.

Not long after the parties married, Mr. Jensen's father died, and Mr. Jensen's mother, Clara, became the sole owner of the shares they had owned as joint tenants. Clara subsequently assigned her shares to Mark and Mr. Jensen. *Id.* at ¶¶ 40-42. She did so in an effort to protect her personal assets since A & D borrows significant sums of money. *Id.* at ¶ 44. Accordingly, by at least 2001 (and at the time of dissolution), A & D's Corporate Income Tax Returns showed Mark and Mr. Jensen as each being 50% owners of A & D. *Id.* at ¶ 93.

At the time of the dissolution, Mr. Jensen was the President of A & D. He and Mark have operated A & D, including setting their own salaries, since their father's death in 1989. *Id.* at ¶¶ 40,46. Under their management, the value of A & D has increased significantly. *Id.* at ¶¶ 48-50.

III. The Resolution Below

Following a trial, the trial court made an equitable order relating to the marital assets and debt pursuant to Utah Code Ann. § 30-3-5. Among other things, the trial court determined that Mr. Jensen should be awarded his shares in A & D because they were acquired by gift, but that Ms. Olson should be awarded half of the increase in equity in A & D "because [Ms. Olson] has contributed to such increase by taking upon herself the household responsibilities and child care." *Id.* at ¶¶ 21-24. The trial court also held that Mr. Jensen should pay her attorney's fees. *Id.* at ¶¶ 23, 28. The trial court entered Supplemental Findings of Fact and Conclusions of Law and a Supplemental Decree of

Divorce, which are attached as Addendum A and Addendum B, respectively. Mr. Jensen subsequently brought this appeal.

SUMMARY OF THE ARGUMENT

The trial court did not abuse its discretion in awarding Ms. Olson half of the increase in equity in A & D. Mr. Jensen should have marshaled the evidence in support of the trial court's ultimate award because it is highly fact-dependent. Additionally, Mr. Jensen should have marshaled the evidence in support of the trial court's finding that he owns half of the shares of A & D. Although the trial court did not explicitly make this finding, the finding may reasonably be implied, and Mr. Jensen's arguments regarding his mother's alleged ownership interest should be rejected where there is sufficient evidence to support the trial court's finding.

Additionally, the trial court did not abuse its discretion in holding that the increase in equity in A & D is marital property, subject to equitable division. Ms. Olson's significant contributions to the marriage enabled Mr. Jensen to devote himself to A & D on a full time basis, and equity requires that she be awarded a portion of increase in equity in A & D. Utah law treats spouses as equal partners in the "business of marriage," thereby permitting trial courts to award a portion of the appreciation on non-marital assets, such as closely-held businesses, to the non-owner spouse.

The trial court's award of attorney's fees to Ms. Olson was within its discretion where the trial court impliedly held that Ms. Olson was unable to pay, that Mr. Jensen was able to pay, and that the fees were reasonable.

ARGUMENT

Point I. This Court Should Affirm the Trial Court's Property Distribution Where Mr. Jensen Failed to Marshal the Evidence.

Where Mr. Jensen has failed to marshal the evidence, this Court should not consider whether the trial court's ultimate award to Ms. Olson was an abuse of discretion. Pursuant to Utah Rule of Appellate Procedure 24(a)(9), an appellant "challenging a fact finding must first marshal all record evidence that supports the challenged finding." Additionally, where "a court's application of a legal standard is extremely fact-sensitive, the appellants also have a duty to marshal the evidence." *United Park City Mines Co. v. Stichting Mayflower Mountain Fonds*, 2006 UT 35, ¶ 25, 140 P.3d 1200 (citing *Chen v. Stewart*, 2004 UT 82, ¶ 20, 100 P.3d 1177). "In order to properly discharge the duty of marshaling the evidence, the challenger must present, in comprehensive and fastidious order, every scrap of competent evidence introduced at trial which supports the very findings the appellant resists. After constructing this magnificent array of supporting evidence, the challenger must ferret out a fatal flaw in the evidence. The gravity of this flaw must be sufficient to convince the appellate court that the court's finding resting upon the evidence is clearly erroneous." *Moon v. Moon*, 1999 UT App 12, ¶ 24, 973 P.2d 431. Thus, appellant's obligation to marshal the evidence is only excused where there is absolutely no evidence to support the trial court's finding. *Orlob v. Wasatch Medical Management*, 2005 UT App 430, ¶ 20, 124 P.3d 269. This means that the appellee "must present only a 'scintilla' of evidence that would support the finding the district court

made in order to show that the appellant did not meet his burden of marshaling the evidence.” *Id.* (citing *Chen*, 2004 UT 82 at ¶ 25, 100 P.3d 1177).

Mr. Jensen has made no attempt to marshal the evidence. In fact, Mr. Jensen brushes over the facts altogether, largely neglecting to cite to the Record. Nevertheless, he claims that the trial court made erroneous findings as to his ownership percentage in A & D and improperly divided the increase in equity in A & D. The determination of the size and value of Mr. Jensen’s equity interest in A & D and how that equity should be divided are highly fact-sensitive matters, however, and Mr. Jensen should have marshaled the evidence in support of the trial court’s award. In *Schraumberg v. Schraumberg*, 875 P.2d 598, 603 (Utah Ct. App. 1994), for example, the husband challenged the trial court’s property distribution regarding an inherited building, based on its allegedly erroneous finding that the husband had spent marital funds to maintain and improve the building. The Court of Appeals affirmed the award of one-half of the equity to the wife due to the husband’s failure to marshal the evidence and show the finding to be clearly erroneous. *Id.* This Court should do the same.

Far more than a “scintilla” of evidence supports both the trial court’s determination of Mr. Jensen’s ownership interest in A & D, and the trial court’s decision to award Ms. Olson half of the increase in equity of the Company. As explained below, the trial court implicitly found that Mr. Jensen owned half of A & D at the time of dissolution. Where Mr. Jensen failed to marshal the evidence in support this finding, the Court should refuse to look beyond that finding and affirm the ultimate award.

A. The Trial Court's Failure to Specifically State Mr. Jensen's Ownership Percentage in A & D is Harmless Where the Trial Court Implicitly Found that Mr. Jensen Owns One-Half of A & D.

Even though Clara assigned her interest in A & D to Mark and Mr. Jensen, Mr. Jensen argues that Clara's interest will not fully pass to him until her death. Br. Aplt. at 8-9. Although the trial court did not make A specific finding regarding Mr. Jensen's ownership of A & D, it is clear from the other findings that the trial court implicitly found that Mr. Jensen owns 50% of the shares of A & D, thereby disregarding the interest allegedly retained by Clara. Accordingly, any alleged error was harmless, and the property division was within the trial court's discretion.

"[A] trial court's decision may be affirmed if the failure to make the missing findings can be viewed as harmless error." *Colonial Pacific Leasing Corp. v. JWCJR*, 1999 UT App 91, ¶ 17, 977 P.2d 541. Harmless error can occur where the unstated findings can be reasonably implied. *Id.* "Unstated findings can be implied if it is reasonable to assume that the trial court actually considered the controverted evidence and necessarily made a finding to resolve the controversy, but simply failed to record the factual determination it made." *Id.* at ¶ 18 (quoting *Hall v. Hall*, 858 P.2d 1018, 1025 (Utah Ct. App.1993)). Based on the evidence and the trial court's other findings, the only reasonable assumption is that the trial court considered the evidence, made a decision, and simply failed to record a finding.

Mr. Jensen states that the trial court actually found that Clara's assignment of her interest to Mark and Mr. Jensen would not constitute a complete transfer until her death. However, Mr. Jensen misrepresents the trial court's finding. The trial court only stated

that Clara *testified* to the same. R. at 370: ¶ 45 (Supplemental Findings and Conclusions). In fact, the trial court implicitly found that Mr. Jensen owns one-half of A & D. The finding is easily implied from the trial court's finding that, since at least 2001, A & D's Corporate Income Tax Returns reflect that Mark and Mr. Jensen are its only owners, one-half each. *Id.* at ¶ 43. Further, the trial court found that Mr. Jensen and his brother have been "in charge" of A & D since their father's death and have made all of the decisions on its behalf. *Id.* at ¶ 46. Apparently based on these findings, the trial court held that Ms. Olson is entitled one-half of the increase in equity in A & D. *Id.* at ¶ 22. Thus, it is reasonable to assume that the trial court found that Mr. Jensen was a one-half owner of A & D.²

B. The Court Should Not Reconsider Mr. Jensen's Ownership Percentage On Appeal Where Mr. Jensen Failed to Marshal the Evidence or Offer Any Legal Support for His Position.

To support his claim on appeal that his mother Clara still "owns" certain shares of A & D, Mr. Jensen was required to marshal the evidence. Mr. Jensen not only fails to marshal the evidence, he neglects to tell the Court what shares he and, allegedly, his mother actually own and therefore, how the trial court erred. Br. Aplt. at 8-9. Accordingly, Ms. Olson need only demonstrate that a "scintilla" of evidence supports the

² Mr. Jensen's contention that he is anything less than a one-half owner of A & D is disingenuous. Since filing this appeal, Mr. Jensen has filed for bankruptcy under Chapter 13. Although not part of the Transcript of Record, Ms. Olson emphasizes that Mr. Jensen testified--under oath--to being a one-half owner of A & D for the purposes of his bankruptcy petition. A copy of Schedule B to his petition is included as Addendum C. To allow Mr. Jensen to be considered a one-half owner of A & D for all purposes, except where it benefits Ms. Olson, would be patently unfair.

trial court's finding that Mr. Jensen is the one-half owner of A & D after Mark and he acquired her shares.

The trial court's finding that Mr. Jensen is reported as owning half of the shares of A & D for federal income tax purposes constitutes a "scintilla" of evidence and is therefore sufficient. R. at 370: ¶ 43 (Supplemental Findings and Conclusions).

Moreover, the trial court was presented with other evidence of Mr. Jensen's ownership interest:

- Ms. Olson submitted copies of the A & D stock certificates that, together, show Mr. Jensen to own half of the total shares of A & D. *See* Trial Exhibit 24 (included as Addendum D). In particular, Certificate No. 13 clearly evidenced Clara's "s[ale], assign[ment], and transfer" of 3,333 shares to Mr. Jensen and his brother Mark as tenants in common effective February 1, 1999. *Id.*
- Based on these records, Mr. Jensen's own witness, Kay Dix Monroe, certified public accountant for A & D, testified that Mark and Mr. Jensen are each 50% "owners" of A & D, as reflected on the tax returns he prepares for the Company. R. at 390 (Trans. of Trial [7/31/2006] at 27-32).
- Mark testified that Clara transferred her shares to him and Mr. Jensen, that they can use her shares now, including voting and pledging them for loans, and that he and Mr. Jensen are the sole owners for tax purposes. R. at 390 (Trans. of Trial [7/31/2006] at 89, 101, 103-04).

- At trial, Mr. Jensen never submitted a proxy agreement, an assignment agreement, or other document suggesting that Clara retained legal title to the shares she assigned to Mark and him.

Thus, there was sufficient evidence--and far more than a scintilla of evidence--upon which the trial court could find that Mr. Jensen is the one-half owner of A & D for the purposes of distributing the marital property.

Additionally, the exact number of shares Mr. Jensen actually “owns” is less important than whether the ultimate award is equitable. Ms. Olson was not awarded Clara’s shares; she was awarded half of the increase in equity in A & D. Admittedly, different members of Mr. Jensen’s family owned varying amounts of stock prior to and during the marriage. However, Mr. Jensen never contends that he did not own any shares of A & D at the time of the dissolution. *See, e.g.*, R. at 388 (Trans. of Trial [2/15/2006] at 155-56) (At the very least, he admits that he owns 3,333 shares). Moreover, Mr. Jensen has never claimed that he enjoys anything less than half of the benefits and burdens of being an owner of A & D. To the contrary, the trial court found that Mark and Mr. Jensen are the 50% owners for purposes of management and control, including acquiring debt and paying taxes.³ R. at 370: ¶¶ 43, 46 (Supplemental Findings and Conclusions). Thus, there were adequate grounds upon which the trial court could ignore

³ Mr. Jensen submits that Clara “presumably could change her mind about leaving her stock to Mr. Jensen and could instead leave it to someone else or dispose of it in some other way.” Br. Aplt. at 9. However, A & D represents to third parties, such as a bonding company and lenders, that Mark and Mr. Jensen are the only owners of A & D. These entities would be interested in learning that Clara “presumably” could strip Mark and Mr. Jensen of their interest in the Company. In reality, of course, this is not the case. Mr. Jensen’s position was clearly rejected by the trial court, and this Court should follow suit.

Clara's alleged ownership interest, and its implicit finding may be affirmed, especially where Mr. Jensen failed to marshal the evidence.

Mr. Jensen may argue in reply that, where Clara owns the shares assigned to him, the trial court's award of half of the increase in equity to Ms. Olson is a purely legal error, thereby allowing him to challenge it without marshaling the evidence. However, Ms. Olson maintains that the trial court's assessment of Clara's interest in A & D was a factual determination, or at the very least, a highly fact-based legal conclusion. Thus, Mr. Jensen was required to marshal the evidence. More importantly, assuming that Clara actually has an interest in A & D, Mr. Jensen failed to show that, under Utah law, the trial court abused its discretion in awarding Ms. Olson half of the increase in equity due to Clara's interest. This is likely because Utah case law does not support his position. Under Utah law, "a marital asset is defined functionally as any right that has accrued during the marriage to a present *or future benefit*." *Jeffries v. Jeffries*, 895 P.2d 835, 837 (Utah Ct. App. 1995) (emphasis added). Even if Mr. Jensen does not "own" half of the increase in equity in A & D at the present time, Mr. Jensen will inherit it upon Clara's death. See R. at 370: ¶ 45 (Supplemental Findings and Conclusions). Thus, "not only was it proper" for the trial court to consider Mr. Jensen's interest in shares to which Clara (allegedly) holds legal title until her death, "it was required." *Jeffries*, 895 P.2d at 838.

Mr. Jensen does refer the Court to *Endrody v. Endrody*, 914 P.2d 1166 (Utah Ct. App. 1996), for the proposition that he must have legal "possession" of the property for the trial court to distribute it. However, in *Endrody*, the Court of Appeals held only that "the equitable powers of the trial court in divorce proceedings do not permit the court to

distribute assets held in a trust created by non-parties to the divorce or in a manner which is inimicable to the terms of the trust agreement.” *Id.* at 1169. Thus, the holding in *Endrody* does not apply to the current dispute. Ms. Olson was not actually distributed any shares. She was awarded money based on the increase in equity in A & D. In other words, she does not seek to undo a trust or otherwise acquire a legal interest in property at all, let alone property owned by a third party. Further, in *Endrody*, the Court acknowledged that trial courts may award a party an equitable interest in property held in trust for the benefit of her spouse, which the Court specifically noted is not inconsistent with cases in which wives are awarded the value of appreciation on a property owned by their husbands. Thus, if anything, *Enrody* supports Ms. Olson’s position.

In sum, Mr. Jensen’s claim that the trial court should not have awarded Ms. Olson half of increase in equity in A & D due to Clara’s alleged ownership interest in the Company is without merit. Mr. Jensen failed to marshal the evidence, and more than a scintilla of evidence supports the trial court’s implicit finding that Mr. Jensen owns one-half of A & D. Additionally, even if Clara can be considered the “owner” of certain shares, her alleged “ownership” is legally unimportant. Thus, the trial court’s award should be affirmed.

Point II. The Trial Court’s Determination that the Increase in Equity In A & D Is Marital Property Was Within Its Discretion.

The trial court held that the appreciation on Mr. Jensen’s interest in A & D during the marriage “should be divided [equally] between the parties.” R. at 364: ¶ 22 (Supplemental Findings and Conclusions). Mr. Jensen argues that, in so holding, the trial

court failed to follow the rule regarding division of non-marital property set forth by the Supreme Court in *Mortensen v. Mortensen*, 720 P.2d 304 (Utah 1988). Br. Aplt. at 9-11. Mr. Jensen further argues that other cases upon which the trial court relied are either distinguishable on their facts or predate *Mortensen* and, therefore, are no longer reliable. Br. Aplt. at 11-15. Mr. Jensen is mistaken, however. Under *Mortensen* and several Court of Appeals decisions, the trial court did not abuse its discretion given all of the facts in this case. A review of the cases illustrates this point.

In *Mortensen*, 706 P.2d at 308, the Supreme Court held that there are several exceptions to the general rule that divorcing parties should be awarded their separate property. The Court stated that trial courts should

generally award property acquired by one spouse by gift and inheritance during the marriage ... to that spouse, together with any appreciation or enhancement of its value, unless (1) the other spouse has by his or her efforts or expense contributed to the enhancement of its value, thereby acquiring an equitable interest in it ..., or (2) the property has been consumed or its identity lost through commingling or exchanges or where the acquiring spouse has made a gift of an interest therein to the other spouse.

Id. (emphasis added). Additionally, the day before *Mortensen* was decided, the Supreme Court acknowledged in *Noble v. Noble*, 761 P.2d 1369, 1373 (Utah 1988), that “there is no *per se* ban on awarding one spouse a portion of the premarital assets of another. In fact, [Utah appellate court] cases have consistently held that under appropriate circumstances, achieving a fair, just, and equitable result may require that the trial court exercise its discretion to award one spouse the premarital property of the other.”

Since *Mortensen* and *Noble*, the Court of Appeals has recognized that a wife may contribute to the enhancement of her husband's separate property by assuming other responsibilities, thereby allowing him to grow the value of that separate property. This often occurs where the separate property is an active investment in a family-owned business. Most recently, in *Elman v. Elman*, 2002 UT App 83, ¶ 20, 45 P.3d 176, the trial court determined that certain partnership interests were the husband's premarital property, that the husband had not commingled the assets, and that the wife had not enhanced or protected the assets in any meaningful way. Nevertheless, the Court of Appeals affirmed the trial court's decision to award the wife a share of the appreciation on the partnership interests due to her management and enhancement of the marital property, which freed the husband to manage the partnerships. *Id.* at ¶ 21-30. Similarly, in *Rappleye v. Rappleye*, 855 P.2d 260, 263 (Utah Ct. App. 1993), the Court of Appeals held that the evidence did not support awarding the entire proceeds of the sale of a hardware store to the husband without more detailed findings, even though the store was a premarital asset, since the trial court failed to consider the wife's contributions to the business, "financial or otherwise," during the marriage. Finally, in *Dunn v. Dunn*, 802 P.2d 1314, 1318 (Utah Ct. App. 1990), the Court of Appeals held that the trial court abused its discretion in characterizing the husband's professional corporation as a non-marital asset. The Court held that, while the wife was not the husband's partner in the corporation, "she was his partner in the 'business' of marriage and her efforts were necessary contributions to the growth of his practice and the business." *Id.* In fact, the Court specifically rejected a property distribution that "ignores contributions of love,

encouragement, and companionship, which elude monetary valuation ... [and] gives short shrift to spouses who contribute homemaking skills and child care.” *Id.* at 1322.

A few opinions issued prior to *Mortensen* (and on which the *Elman* Court relies) are also instructive. In *Lee v. Lee*, 744 P.2d 1378 (Utah Ct. App. 1987), the trial court was reversed for failing to award the wife an equitable share of the value of a corporation established after the marriage with proceeds of the sale of separate property. “[T]he corporation’s value was actualized during the marriage,” and the wife assisted in the operation of the corporation, “reared the parties’ two children and performed domestic duties, allowing the husband to participate full-time in the business.” *Elman*, 2002 UT App 83 at ¶ 27 (citing *Lee*, 744 P.2d at 1380). Finally, in *Savage v. Savage*, 658 P.2d 1201 (Utah 1983) “the court approved an award of 40% of the husband’s interest in premarital corporation to wife where entire present value was developed during the marriage ... [because] her assumption of ‘domestic burdens’ made husband’s full-time participation in the corporation possible.” *Elman*, 2002 UT App 83 at ¶ 27 (citing *Savage*, 658 P.2d at 1204).

Mr. Jensen argues that *Savage* and *Lee* are no longer reliable sources of law because they predate *Mortensen*. This argument assumes both that *Mortensen* altered the state of the law and that *Savage* and *Lee* would have been decided differently under the rule set forth in *Mortensen*. Neither assumption is sustainable. In *Mortensen*, the Supreme Court stated that its holding regarding the division of non-marital property was “in accordance with the rule prevailing in most other jurisdictions and with the division made in many of our own cases.” *Mortensen*, 720 P.2d at 308. Likewise, the *Elman*

Court relied on both *Savage* and *Lee*, without qualification, in holding that the wife was entitled part of the appreciation on the husband's separate property. Thus, the trial court's reliance on *Savage* and *Lee* was also well-placed.

Taken together, the Court of Appeals clearly recognizes that "separate property is not totally beyond a court's reach in an equitable property division." *Elman*, 2002 UT App 83, ¶ 19 (internal quotation omitted). To the contrary, the trial court must ultimately consider "whether the distribution achieves a fair, just, and equitable result." *Id.* (quoting *Rappleye*, 855 P.2d at 263).

Applying the foregoing to the case at hand, the trial court did not abuse its discretion in treating Ms. Olson as an "equal partner in the marriage" and awarding her half of the appreciation in value of Mr. Jensen's interest in A & D. *See Dunn*, 802 P.2d at 1320. Specifically, the trial court held that the increase in equity in A & D "is marital property because [Ms. Olson] has contributed to such increase by taking upon herself the household responsibilities and care of the child." R. at 364: ¶ 23 (Supplemental Findings and Conclusions). Indeed, Ms. Olson cared for the home, prepared the meals, and handled the finances. R. at 388 (Trans. of Trial [2/15/2006] at 23, 26). She also supplemented the parties' income from A & D by working part time as a massage therapist and cosmetologist, which the trial court acknowledged "contributed to the family finances." R. at 375: ¶¶ 13-16 (Supplemental Findings and Conclusions). Due at least in part to Ms. Olson's efforts, Mr. Jensen was able to devote himself full time to the maintenance and growth of his interest in A & D.

Nevertheless, Mr. Jensen seeks to minimize Ms. Olson's contributions to the marriage as being "non-extraordinary," and therefore, undeserving of a share of the appreciation in A & D. Mr. Jensen offers no legal support or factual analysis to support this assertion, however, thereby implying that caretaking and homemaking are necessarily non-extraordinary. This approach undervalues the responsibilities often assumed by women and is contrary to the case law explored above. Moreover, the trial court is in the best position to determine whether Ms. Olson's contribution to the marriage merits a portion of the increase in equity in A & D. Accordingly, this Court will "disturb a trial court's property division and valuation only when there is a misunderstanding or misapplication of the law resulting in substantial and prejudicial error ... or such a serious inequity has resulted as to manifest a clear abuse of discretion." *Elman*, 2002 UT App 83, ¶ 17 (internal quotation omitted). Mr. Jensen has not demonstrated that either condition is present here.

Mr. Jensen also attempts to use Ms. Olson's development of a massage therapy and cosmetology business to distinguish her from the wife in *Elman*.⁴ However, Ms. Olson's contribution to the marital income makes the property division more, not less, equitable. With the additional income, Mr. Jensen was able to pay himself a smaller salary from the Company than if the parties were entirely dependent upon his income. These savings contributed to both the acquisition of additional shares by Mr. Jensen

⁴ Mr. Jensen also asserts that Ms. Olson's business was not incorporated into the trial court's property division since she was awarded her interest in the business. This is untrue. The trial court subtracted the value of Ms. Olson's business (i.e., \$5,000) from the total monetary award to her. R. at 373: ¶ 21, 364: ¶ 22 (Supplemental Findings and Conclusions).

pursuant to the Agreement with his uncle Arnell and the acquisition of additional assets by A & D. Because A & D paid Arnell for the shares Mr. Jensen acquired from him, the Company effectively paid a dividend to its shareholders in the form additional shares. *See* R at 372: ¶ 34 through 373: ¶ 39 (Supplemental Findings and Conclusions).

Similarly, rather than paying additional dividends or higher salaries, the Company purchased over a million dollars worth of equipment during the marriage, thereby adding value to the Company. *See* R. at 390 (Trans. of Trial [7/31/2006] at 56) (Company has never paid a dividend; it reinvests profits); R. at 390 (Trans. of Trial [7/31/2006] at 40, 47-48) (Company purchased \$1.4 million in equipment in a 15 year period, and owned approximately \$350,000 worth of equipment by the end of 2005). Thus, Mr. Jensen's desire to keep all of the increase in equity during the marriage for himself ignores Ms. Olson's contribution (albeit indirect) to Mr. Jensen's coming to own one-half of a valuable construction company.

Finally, when viewed in relation to the considerable benefits that Mr. Jensen will receive from his continued ownership interest in A & D, awarding Ms. Olson a portion of the increase in equity in A & D was equitable. In addition to his salary, the Company provides Mr. Jensen with all personal, transportation-related expenses. R. at 370: ¶ 51 (Supplemental Findings and Conclusions). Additionally, A & D owns a small farm, and Mr. Jensen provides himself with meat, free of charge. *Id.* Finally, in 2005, A & D made a sizable profit, approximately \$150,000.⁵ Because A & D is a "Subchapter C"

⁵ A & D's accountant, Kay Dix Monroe, testified that, after deducting salaries, the Corporation had a profit of \$51,523 in 2005 for federal income tax purposes. This

corporation, this income was not attributed to Mr. Jensen, even though it will indirectly benefit him. These benefits, though difficult to quantify, were properly before the trial court, and further justify the trial court's decision.

Based on these facts, the trial court was within its discretion in awarding Ms. Olson one-half of the increase in equity in A & D, and its property distribution should be affirmed.

Point III. The Trial Court Properly Awarded Attorney's Fees to Ms. Olson Where The Trial Court's Failure to Make the Underlying Factual Findings Was Harmless.

Pursuant to Utah Code Ann. § 30-3-3 (a), the trial court may order a party to pay the attorney's fees incurred by the other party in prosecuting or defending the domestic action. "The decision to award attorney fees and the amount thereof rests primarily in the sound discretion of the trial court," which must consider "the receiving spouse's financial need, the payor spouse's ability to pay, and the reasonableness of the requested fees."

Wall v. Wall, 2007 UT App 61, ¶ 24, 157 P.3d 341 (Utah App. 2007) (internal quotation omitted).

Admittedly, the trial court did not make any explicit findings to support its award of attorney's fee to Ms. Olson. However, as discussed above, unstated findings can be implied if it is reasonable to do so. *See Colonial Pacific Leasing Corp. v. JWCJR*, 1999 UT App 91, ¶ 17, 977 P.2d 541. The trial court found that Mr. Jensen has significantly higher monthly income than Ms. Olson—\$2,917 compared to \$956 (excluding child

calculation includes a \$105,000 tax deduction called a "Section 179 deduction" based on the depreciation of equipment. Because the Company did not actually incur this expense, A & D actually realized a profit of over \$150,000 in 2005. R. at 390 (Trans. of Trial [7/31/2006] at 36-38).

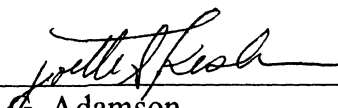
support). R. at 375: ¶ 12, 373: ¶ 20 (Supplemental Findings and Conclusions). By awarding Mr. Jensen his shares in A & D, moreover, he will continue to be provided with food and transportation free of cost. R. at 370: ¶ 51 (Supplemental Findings and Conclusions). Thus, it is reasonable to infer that Ms. Olson lacks the ability to pay her own attorneys' fees, whereas Mr. Jensen has the ability to pay them. Additionally, Ms. Olson's attorney, Michael Labrum, submitted an Affidavit of Counsel Regarding Attorney's Fees in the amount of \$12,562.50 (the amount of the award), in which he stated that his attorney's fees were reasonable, and to which he attached an accounting. R. at 348. Again, it is reasonable to infer that the Court agreed that Mr. Labrum's fees were reasonable. The trial court's attorney's fee award should be affirmed.

CONCLUSION

Based on the foregoing, Ms. Olson respectfully requests that the trial court's Decree of Divorce be affirmed. Additionally, Ms. Olson respectfully requests that, should she prevail, she be awarded her attorney's fees and costs incurred in defending this appeal. *See Wall v. Wall*, 2007 UT App 61, ¶ 26, 157 P.3d 341 (Utah Ct. App. 2007).

DATED this 28th day of June, 2007.

DART, ADAMSON & DONOVAN




Craig G. Adamson
Craig A. Hoggan
Joelle S. Kesler
Attorneys for Appellants

CERTIFICATE OF MAILING

I hereby certify that on the 28th day of June, 2007, I caused to be mailed via first-class, U.S. Mail, postage prepaid, two true and correct copies of APPELLEE'S BRIEF to the following:

Douglas L. Neeley
1st South Main Street, Suite 201
PO Box 7
Manti, Utah 84642

_____

ADDENDA

A-Supplemental Findings of Fact and Conclusions of Law

B-Supplemental Decree of Divorce

C-Schedule B to Mr. Jensen's Bankruptcy Petition

D-Trial Exhibit 24

Tab A

SIXTH DISTRICT COURT
2006 NOV 27 PM 4:43
CLERK Ln

DISTRICT COURT, SEVIER COUNTY, UTAH
895 E. 300 N.
RICHFIELD, UTAH 84701
Telephone: 435-896-2700 Fax: 435-896-8047

KAE JENSEN,

Petitioner,

vs.

DAVID LEON JENSEN,

Respondent.

**SUPPLEMENTAL FINDINGS OF
FACT AND CONCLUSIONS OF
LAW**

Case No. 044600066

Assigned Judge: DAVID L. MOWER

This matter came before the Court on February 15, 2006 and was continued twice to June 20, 2006 and to July 31, 2006. Petitioner was present and represented by her attorney Michael R. Labrum. Respondent was also present and represented by his attorney Douglas L. Neeley.

Based on the testimony of witnesses and exhibits, the Court now enters the following:

FINDINGS OF FACT

1. Petitioner and Respondent are bona fide residents of Sevier County, State of Utah, and have been for three (3) months immediately prior to the filing of this action.
2. The parties were married on November 11, 1988 in the City of Venice, Sevier County, State of Utah.
3. The parties were divorced on July 11, 2005 by entry of a Bifurcated Decree of Divorce.
4. The marriage lasted for seventeen (17) years.

5. One child, Savanna Marie Jensen, was born to this marriage on November 10, 1989.
6. During the marriage, Petitioner was the primary homemaker and caretaker of Savanna.
7. Petitioner has other children from a prior marriage. Those children reside in Alaska with their father.
8. The parties have spent money on airplane tickets and other travel needs so that the Petitioner could maintain a relationship with those children.
9. The source of funds were credit cards and mortgages on the marital home.
10. Respondent has never objected to those expenses and encouraged the Petitioner to maintain a relationship with her children from the prior marriage.
11. Throughout the marriage, Respondent has been employed full-time by A&D Jensen Contractors, Inc. ("the Corporation" or "the Company.")
12. Respondent's gross income per pay period (two weeks) is \$1,346.15, which converts to \$2,917.00 per month or \$35,000.00 per year¹.
13. Petitioner has a beautician license and a massage therapist license. She acquired her beautician license prior to her marriage to the Respondent. She acquired her

¹ This is how the Court calculated the numbers. There are twenty six (26) two-week pay periods in a year. Respondent's annual income is $26 \times 1,346.15$, which equals 34,999.99 \approx 35,000.00. Average income per month was calculated as follows: $35,000.00 \div 12 \text{ months} = 2,916.66 \approx 2,917.00$

massage therapist license during the marriage

14. Petitioner began working as massage therapist in December of 1991.
15. During the marriage, Petitioner contributed to family finances by operating massage therapy and cosmetology businesses.
16. Petitioner's Individual Income Tax Return for Year 2004 includes a Schedule C.
 - a. The amount of gross sales that appears on Schedule C is \$15,114.00.
 - b. The dollar amount representing business expenses is \$3,647.00.
 - c. Net income (after business expenses) is \$11,467.00.
17. Respondent brought the Petitioner's appointment books for years 2001 through part of 2005 to court. Respondent has calculated Petitioner's gross income for those years based on the number of appointments multiplied by low and high charges for her services. Respondent submitted two numbers for each year based on low and high charges. He specifically excluded from his calculations two names that he knew were normally paying by non-cash bartering. Respondent's numbers for Petitioner's income were higher than her reported number on the tax return.
18. Petitioner testified that her gross income based on the appointment book was higher because she did not cross out the names of the individuals who did not show up for their appointments.

19. The Court chooses to rely on the Petitioner's Individual Income Tax Return for Year 2004 because the Respondent's theory involves too much speculation.
20. Petitioner's adjusted gross annual income is \$11,467.00. Her adjusted gross monthly income is \$956.00².
21. The approximate value of the Petitioner's businesses is \$5,000 based on her testimony and the depreciation schedule attached to her 2004 Individual Income Tax Return listing all of the business's assets.
22. The parties own a home located at 257 West 400 South, Richfield, Utah 84701. The legal description of the property is as follows: the East Half of Lot 3, Block 5, Plat "A," Richfield City Survey.
23. Petitioner is currently operating her businesses in a portion of the home.
24. The parties have incurred the following credit card debts during the marriage with the balances still outstanding: (1) American Express Blue under the name of Kae Jensen (balance as of March 28, 2005, \$7,627.79); (2) Sears Gold Mastercard under the name of Kae Jensen (balance as of April 8, 2005, \$11,232.38); and (3) Capitol One under the names of David and Kae Jensen (balance as of April 20, 2005, \$6,106.07). The total credit card indebtedness is \$24,966.24.
25. A large number of the credit card charges are Petitioner's personal expenses.

² \$11,467.00 ÷ 12 months = \$955.58 ≈ \$956.

Some of the charges are also family expenses.

26. Defendant has never objected to Petitioner's use of the credit cards.
27. The parties also incurred more than \$40,000 in credit card debt which was paid by transferring it to other credit cards or by refinancing the mortgage on the home.
28. The parties' marital home is encumbered with approximately \$90,000 in mortgage-secured debt, which exceeds the value of the home.
29. The main dispute between the parties is about the division of the value of the shares of stock in A&D Jensen Contractors, Inc.
30. A&D Jensen Contractors, Inc. was organized in 1967 by the Respondent's father, Delbert Jensen, and three uncles, Emron, Arnell, and Lars Jensen.
31. The total number of shares in the Company was 50,000.
32. In 1980, 20,000 shares were owned by Delbert Jensen and his wife Clara Jensen; 20,000 were owned by Arnell Jensen and his wife Norine Jensen; and 10,000 were treasury stock.
33. Since 1984, Respondent and his brother Mark Jensen worked for the Corporation as laborers and received compensation for their work.
34. On May 20, 1985, Respondent and his brother Mark Jensen entered into an Escrow Sales Agreement ("the Agreement") with Arnell V. Jensen and Norine L. Jensen to purchase Arnell Jensen's 20,000 shares of stock for \$80,000.

35. The Agreement called for installment payments every six months for fifteen years with interest to be added to the unpaid balance.
36. Respondent and Mark Jensen never made any payments as required by the Agreement. Instead, the Corporation made those payments on their behalf.
37. As of today, the Agreement is fulfilled; and Arnell Jensen's stock is fully paid for.
38. Arnell Jensen's stock has been assigned to Respondent and Mark Jensen as tenants in common. (Stock Certificates numbers 5, 6, 9, and 10.)
39. On October 28, 1986, the 10,000 shares of the treasury stock were issued to the Respondent, to his father, and to Mark Jensen, 3,333.33 shares to each.

Respondent did not pay anything for those shares. (Stock Certificates numbers 11, 12, and 13.)
40. In 1989, Respondent's father died. His wife Clara Jensen became the owner of all of his stock.
41. The 1990 Corporation Income Tax Return shows that Clara Jensen is the owner of 50% of the voting stock.
42. On February 1, 1999, Clara Jensen assigned some of her shares to the Respondent (see Stock Certificate number 13) and the rest of her shares to Mark Jensen (see Stock Certificates numbers 1 and 2.) The Respondent has never paid anything for those shares.

43. The 2001 Corporation Income Tax Return shows that David and Mark Jensen are 50% owners of the Corporation. Corporation Income Tax Returns for subsequent years (2002, 2003, and 2004) contain the same information as to the ownership.
44. Clara Jensen assigned all of her shares to Respondent and Mark Jensen in order to protect her assets, since the Corporation borrows substantial sums of money.
45. She testified that the assignment would become a full transfer upon her death; and that those shares are Respondent's and Mark Jensen's inheritance.
46. Respondent and Mark Jensen have been in charge of the Corporation since the death of their father. They have made all the decisions on behalf of the Corporation, set up their salaries, borrowed money, and performed the work.
47. Respondent is the president of the Corporation.
48. As of December 31, 1989, adjusted total equity³ in the Corporation was \$130,847.
49. As of December 31, 2004, adjusted total equity in the corporation was \$361,698.
50. The difference between these two numbers is \$230,851.00.
51. Respondent receives some benefits from the Corporation besides his salary. The Corporation supplies him with beef and pays for insurance, maintenance and operation expense on personal vehicles. Respondent could not place a value on

³ Adjusted total equity is calculated by adding total increase in the value of the corporate assets to the book-value equity in the corporation. The book-value equity is based on the book-value of assets, meaning keeping all of the assets at their historic acquisition cost, less any depreciation used as an expense. (The information to make these calculations came from an expert witness, Kay Dix Monroe, Certified Public Accountant.)

these benefits.

52. During the course of the marriage, the parties have acquired certain items of personal property. The parties have already divided that property and that division is undisputed.
53. Both parties are now remarried.
54. On October 6, 2004, Petitioner was awarded a judgment for \$1,170.00 in attorney's fees. Respondent has not paid this judgment.
55. Petitioner has incurred further attorney's fees in this action in the amount of \$12,562.50.
56. Neither party has any savings and their retirement accounts are modest.
57. Petitioner has incurred some medical expenses on behalf of the minor child for eye care and dental work. Respondent refused to pay his half of the expenses because the Petitioner never provided written verification of the expenses.
58. Respondent currently has medical insurance coverage for the minor child through his new wife's insurance policy.
59. The medical insurance premiums for the minor child are \$99.22 per month.

Based on these Findings of Fact, the Court enters the following:

CONCLUSIONS OF LAW

1. Petitioner should be awarded permanent care, custody, and control of the minor child, Savanna Marie Jensen, subject to Respondent's right to reasonable visitation in accordance with Utah Code Annotated, Section 30-3-35. The parties should also be ordered to adhere to the Advisory Guidelines set forth in Utah Code Annotated, Section 30-3-33.
2. Both parties should be permanently enjoined from saying or doing anything in the presence of the minor child (or in such a manner that the child would become aware of the party's comments or actions) to convey any negative information, beliefs, and feelings, regarding the other parent, or doing or saying anything that would in any way harm the relationship between the child and the other parent.
3. Both parents should encourage the creation and maintenance of a strong and healthy relationship between the other parent and the child. In no event should either party demean or disparage the other parent in the presence of the child, or permit any third party to do so.
4. The Respondent should pay the Petitioner child support in the sum of \$343.50 per month, pursuant to the Uniform Child Support Guidelines. The child support should continue until the minor child reaches the age of eighteen (18) years or graduates from high school during the child's normal and expected year of

graduation, whichever occurs later.

5. Universal Income Withholding should apply pursuant to Utah Code Annotated, Section 62A-11-501. This income withholding procedure should apply to existing and future payors.
6. All payments should be made through the Office of Recovery Services, P.O. Box 45011, Salt Lake City, Utah 84145-0011.
7. Both parties should be entitled to receive a credit in addition to the base child support amount for one-half ($\frac{1}{2}$) of the monthly medical insurance premiums actually paid for the benefit of the minor child of the parties beginning January 1, 2006.
8. Respondent should credit one-half ($\frac{1}{2}$) of the amount of medical insurance premiums (\$49.61) that he has paid on behalf of the minor child against the unpaid medical expenses for the minor child that he still owes to the Petitioner.
9. After that, the Respondent should receive credit against the child support for \$49.61 per month, representing $\frac{1}{2}$ of the amount of medical insurance premiums that he pays on behalf of the parties' minor child.
10. Both parties should be required to maintain in effect a policy of dental, health, and accident insurance at all times that such may be available through their respective employers at a reasonable cost with the minor child named as

beneficiary thereunder.

11. Further, each party should pay one-half ($\frac{1}{2}$) of any deductible amounts, co-payments, and one-half ($\frac{1}{2}$) of all non-covered medical and dental expenses (including, but not limited to, accidents, surgery, orthodontics, ophthalmology, optometry [including eyeglasses], cavities/fillings, psychological, and/or psychiatric care, hospitalization, broken limbs, physical therapy, continuing illnesses, allergies, etc.) for the minor child.
12. A parent who incurs medical expenses should provide a written verification of the cost and payment of the expenses to the other parent within thirty (30) days of payment.
13. Each party should reimburse the other party within thirty (30) days for his or her share of any medical or dental expense that has been paid by the other party and is not covered by health insurance for the minor child.
14. The custodial parent should provide a copy of the Decree of Divorce to each creditor providing medical or dental service for the minor child pursuant to Utah Code Annotated, Section 15-4-637.
15. No alimony should be awarded since both parties are now remarried.
16. The outstanding credit card debt should be split between the parties in proportion to their respective incomes. The parties combined gross annual income is

\$46,467.00 with Petitioner having 25% of the total income and the Respondent having 75% of the total income. Petitioner should pay 25% of the credit card debt (\$6,241.56). Respondent should pay 75% of the credit card debt (\$18,724.68).

17. The home and real property located at 257 West 400 South, Richfield, Utah 84701 should be awarded to the Respondent subject to the debt thereon. Respondent should hold Petitioner harmless from the debt. Petitioner should execute and deliver to the Respondent a Quit Claim Deed conveying her interest in the home and real property to the Respondent.
18. All of the personal property should be awarded to each of the parties as they have previously divided it as their sole and exclusive property with no interest in the other.
19. Petitioner should be awarded all interest in her massage and cosmetology businesses. Respondent should have no interest in that business. Petitioner should hold Respondent harmless from any debts incurred on behalf of the business.
20. Petitioner should vacate the martial home within one month.
21. The stock that the Respondent owns in A&D Jensen Contractors, Inc. should be awarded to the Respondent because it is his separate property acquired by gift. (See *Mortensen v. Mortensen*, 760 P.2d 304, 307 (Utah 1988).)
22. The increase in the adjusted total equity in the A&D Jensen Contractors, Inc.

from December 31, 1989 to December 31, 2004 is \$230,851.00. This equity should be divided between the parties. It is marital property because the Petitioner has contributed to such increase by taking upon herself the household responsibilities and care of the child. (See *Id.* at 306; *Savage v. Savage*, 658 P.2d 1201, 1204 (Utah 1983); *Lee v. Lee*, 744 P.2d 1378, 1380 (Utah App. 1987); *Elman v. Elman*, 45 P.3d 176, 180 (Utah App. 2002).)

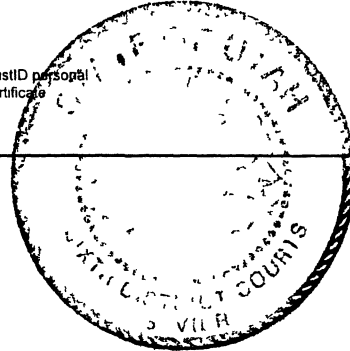
23. The increase should be divided according to the following formula: change in adjusted total equity less the 75% of the credit card debt that Respondent should pay, less the attorney's fees that Respondent should pay, and less the value of the Petitioner's business. $(\$230,851.00 - 18,724.68 - \$12,562.50 - \$5,000 = \$194,563.82)$ This number should then divided by two, which represents each party's share of equity. $(\$194,563.82 \div 2 = \$97,281.91)$
24. Petitioner should be awarded a judgment in that amount, namely \$97,281.91.
25. Each party should be awarded their respective retirement accounts with no interest in the other party.
26. The parties should alternate the minor child as dependent for tax purposes with the Petitioner claiming deduction beginning the 2006 tax year.
27. Respondent should pay \$1,170 in attorney's fees previously awarded to the Petitioner.

28. Respondent should also pay the rest of the Petitioner's attorney's fees in the
amount of \$12,562.50.

Date Nov. 27, 2006

Digitally signed by David L. Mower
DN: CN = David L. Mower, C = US, O = TrustID personal
certificate, OU = DST TrustID Personal Certificate
Reason: I am the author of this document
Date: 2006.11.27 11:35:54 -07'00

David L. Mower
District Court Judge



Certificate of Notification

On Nov. 27, 2006, a copy of the above was sent to:

Michael R. Labrum
MICHAEL R. LABRUM, P.C.
Attorney for Petitioner
180 North 100 East, Suite E
P.O. Box 217
Richfield, Utah 84701
(Court Box)

Douglas L. Neeley
Attorney for Respondent
1st South Main, Suite 205
P.O. Box 7
Manti, Utah 84642
(Court Box)

x Lynne Hawkes

Tab B

2006 NOV 27 PM 4:43

CLERK Ln

DISTRICT COURT, SEVIER COUNTY, UTAH

895 E. 300 N.

RICHFIELD, UTAH 84701

Telephone: 435-896-2700 Fax: 435-896-8047

KAE JENSEN,

Petitioner,

vs.

DAVID LEON JENSEN,

Respondent.

**SUPPLEMENTAL DECREE OF
DIVORCE**

Case No. 044600066

Assigned Judge: DAVID L. MOWER

This matter came before the Court on February 15, 2006, June 20, 2006 and July 31, 2006. Petitioner was present and represented by her attorney Michael R. Labrum. Respondent was also present and represented by his attorney Douglas L. Neeley.

The Court, having made and entered its Findings of Fact and Conclusions of Law, now, therefore, enters the following:

SUPPLEMENTAL DECREE OF DIVORCE

1. Petitioner is fit and proper person; and she is awarded the permanent care, custody, and control of the minor child, Savanna Marie Jensen, born on November 10, 1989, subject to Respondent's right to reasonable visitation in accordance with Utah Code Annotated, Section 30-3-35. The parties are further ordered to adhere to the Advisory Guidelines set forth in Utah Code Annotated, Section 30-3-33.

2. Both parties are permanently enjoined from saying or doing anything in the presence of the minor child (or in such a manner that the child would become aware of the party's comments or actions) to convey any negative information, beliefs, and feelings, regarding the other parent, or doing or saying anything that would in any way harm the relationship between the child and the other parent.
3. Both parents shall encourage the creation and maintenance of a strong and healthy relationship between the other parent and the child. In no event shall either party demean or disparage the other parent in the presence of the child, or permit any third party to do so.
4. The Respondent is ordered to pay the Petitioner child support in the sum of \$343.50 per month, pursuant to the Uniform Child Support Guidelines. The child support shall continue until the minor child reaches the age of eighteen (18) years or graduates from high school during the child's normal and expected year of graduation, whichever occurs last.
5. Universal Income Withholding applies pursuant to Utah Code Annotated, Section 62A-11-501. This income withholding procedure applies to existing and future payors.
6. All payments are to be made through the Office of Recovery Services, P.O. Box 45011, Salt Lake City, Utah 84145-0011.
7. Both parties shall be entitled to receive a credit in addition to the base child

support amount for one-half ($\frac{1}{2}$) of the monthly medical insurance premiums actually paid for the benefit of the minor child of the parties beginning January 1, 2006.

8. Respondent shall credit one-half ($\frac{1}{2}$) of the amount of medical insurance premiums (\$49.61) that he has paid on behalf of the minor child against the unpaid medical expenses for the minor child that he still owes to the Petitioner.
9. After that, the Respondent shall receive credit against the child support for \$49.61 per month, representing $\frac{1}{2}$ of the amount of medical insurance premiums that he pays on behalf of the parties' minor child.
10. Both parties are required to maintain in effect a policy of dental, health, and accident insurance at all times that such may be available through their respective employers at a reasonable cost with the minor child named as beneficiary thereunder.
11. Further, each party shall pay one-half ($\frac{1}{2}$) of any deductible amounts, co-payments, and one-half ($\frac{1}{2}$) of all non-covered medical and dental expenses (including, but not limited to, accidents, surgery, orthodontics, ophthalmology, optometry [including eyeglasses], cavities/fillings, psychological, and/or psychiatric care, hospitalization, broken limbs, physical therapy, continuing illnesses, allergies, etc.) for the minor child.
12. A parent who incurs medical expenses shall provide a written verification of the

cost and payment of the expenses to the other parent within thirty (30) days of payment.

13. Each party shall reimburse the other party within thirty (30) days for his or her share of any medical or dental expense that has been paid by the other party and is not covered by health insurance for the minor child.
14. The custodial parent shall provide a copy of the Decree of Divorce to each creditor providing medical or dental service for the minor child pursuant to Utah Code Annotated, Section 15-4-637.
15. No alimony is awarded to either party.
16. The outstanding credit card debt is split between the parties in proportion to their respective incomes. The parties combined gross annual income is \$46,467.00 with Petitioner having 25% of the total income and the Respondent having 75% of the total income. Petitioner is ordered to pay 25% of the credit card debt (\$6,241.56). Respondent is ordered to pay 75% of the credit card debt (\$18,724.68).
17. The home and real property located at 257 West 400 South, Richfield, Utah 84701 is awarded to the Respondent subject to the debt thereon. Respondent shall hold Petitioner harmless from the debt. Petitioner is ordered to execute and deliver to the Respondent a Quit Claim Deed conveying her interest in the home and real property to the Respondent.
18. All of the personal property is awarded to each of the parties as they have

previously divided it as their sole and exclusive property with no interest in the other.

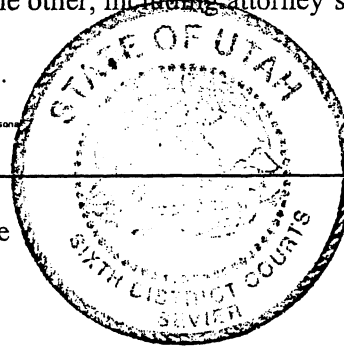
19. Petitioner is awarded all interest in her massage business "Golden Touch." Respondent shall have no interest in that business. Petitioner shall also hold Respondent harmless from any debts incurred on behalf of the business.
20. Petitioner is ordered to vacate the martial home within one month after this Supplemental Decree of Divorce is signed.
21. The stock that the Respondent owns in A&D Jensen Contractors, Inc. is awarded to the Respondent.
22. The increase in the adjusted total equity in the A&D Jensen Contractors, Inc. from December 31, 1989 to December 31, 2004 is divided between the parties in the following fashion: change in adjusted total equity less 75% of the credit card debt that Respondent should pay, less attorney's fees that Respondent should pay, and less the value of the Petitioner's business. ($\$230,851.00 - 18,724.68 - \$12,562.50 - \$5,000 = \$194,563.82$) This number is then divided by two, which represents each party's share of equity. ($\$194,563.82 \div 2 = \$97,281.91$)
23. Petitioner is awarded a judgment against Respondent and he is ordered to pay Petitioner that amount, namely \$97,281.91. ✱
24. Each party is awarded their respective retirement accounts with no interest in the other party.

25. The parties shall alternate the minor child as dependent for tax purposes with the Petitioner claiming deduction beginning the 2006 tax year.
26. Respondent is ordered to pay \$1,170 in attorney's fees previously awarded to the Petitioner.
27. Petitioner is also awarded a judgment against Respondent, \$12,562.50^{*} for the benefit of her attorney.
28. Both parties are ordered to execute and deliver to the other such documents as are necessary to implement the provisions of this Supplemental Decree of Divorce. Should either party fail to abide by the provisions of this Decree, the offending party shall be liable for indemnification to the other, including attorney's fees and court costs in the enforcement of the Decree.

Date _____, 2006

Digitally signed by David L. Mower
DN: CN = David L. Mower, C = US, O = TrustID personal
certificate, OU = DST TrustID Personal Certificate
Reason: I am the author of this document
Date: 2006.11.27 11:35:25 -0700

David L. Mower
District Court Judge



Certificate of Notification

On Nov. 27, 2006, a copy of the above was sent to:

Michael R. Labrum
MICHAEL R. LABRUM, P.C.
Attorney for Petitioner
180 North 100 East, Suite E
P.O. Box 217
Richfield, Utah 84701
(Court Box)

Douglas L. Neeley
Attorney for Respondent
1st South Main, Suite 205
P.O. Box 7
Manti, Utah 84642

(Court Box)

X Lynne Neeley

Tab C

re **David Leon Jensen**

Case No. _____

Debtor

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
Furs and jewelry.		Jewelry Location: 257 West 400 South, Richfield UT	H	100.00
Firearms and sports, photographic, and other hobby equipment.		Camera, Guns Location: 257 West 400 South, Richfield UT	H	410.00
Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
0. Annuities. Itemize and name each issuer.	X			
1. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			
2. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		Debtor has a one-half interest in A&D JENSEN CONTRACTORS, INC., a closely held corporation owed equally by the Debtor and his brother Location: 257 West 400 South, Richfield UT		65,082.00
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			

Sub-Total > **65,592.00**
(Total of this page)

Sheet 1 of 3 continuation sheets attached
to the Schedule of Personal Property

In re **David Leon Jensen**

Case No. _____

Debtor

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1978 Ford Bronco	H	150.00
		Location: 257 West 400 South, Richfield UT		
		1983 GMC S-10	H	100.00
		Location: 257 West 400 South, Richfield UT		
		1986 Chrysler Concord	J	3,000.00
		Location: 257 West 400 South, Richfield UT		
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			

Sub-Total > **3,250.00**
(Total of this page)

Sheet **2** of **3** continuation sheets attached
to the Schedule of Personal Property

n re David Leon Jensen,
Debtor

Case No _____

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property without Deducting any Secured Claim or Exemption
9 Machinery, fixtures, equipment and supplies used in business	X			
0 Inventory	X			
1 Animals	X			
2 Crops - growing or harvested Give particulars	X			
3 Farming equipment and implements	X			
4 Farm supplies, chemicals, and feed	X			
5 Other personal property of any kind not already listed Itemize	X			

Sub-Total > **0.00**
(Total of this page)
Total > **71,581.26**

Sheet 3 of 3 continuation sheets attached
to the Schedule of Personal Property

(Report also on Summary of Schedules)

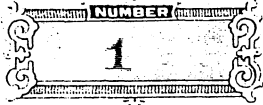
Tab D

A & D Jensen Contractors, Inc.
STOCK HISTORY

CERT. NUMBER	NUMBER OF SHARES	DATE	SHAREHOLDER
#1	5,000	05-10-67	Delbert & Clara Jensen, Joint Tenants With Full Rights of Survivorship
		02-01-99	to Mark Jensen
#2	5,000	05-10-67	Delbert & Clara Jensen, Joint Tenants With Full Rights of Survivorship
		02-01-99	to Mark Jensen
#3	5,000	05-10-67	Emron Alfred Jensen & Melva Jensen, Joint Tenants With Full Rights of Survivorship
		02-22-85	to David L. Jensen
#4	5,000	05-10-67	Emron Alfred Jensen & Melva Jensen, Joint Tenants With Full Rights of Survivorship
		02-22-85	to David L. Jensen
#5	5,000	05-10-67	Arnell Jensen & Novine Jensen, Joint Tenants With Full Rights of Survivorship
		05-21-85	to David & Mark Jensen, Tenants in Common
#6	5,000	05-10-67	Arnell Jensen & Novine Jensen, Joint Tenants With Full Rights of Survivorship
		05-21-85	to David & Mark Jensen, Tenants in Common
#7	5,000	05-10-67	Lars & Leda Jensen
		05-1985	to Arnell & Novine Jensen Cert #9 issued and #7 cancelled

PETITIONER'S EX	
EXHIBIT NO.	24
CASE NO	04460
DATE REC'D	6/20
IN EVIDENCE	
CLERK	

CERT. NUMBER	# OF SHARES	DATE	SHAREHOLDER
#8	5,000	05-10-67	Lars & Leda Jensen
		05-1985	to Arnell & Novine Jensen Cert #10 issued and #8 cancelled
#9	5,000	05-1985	Arnell & Novine Jensen
		05-21-85	assigned to Mark & David Jensen as Tenants in Common
#10	5,000	05-1985	Arnell & Novine Jensen
		05-21-85	assigned to Mark & David Jensen as Tenants in Common
#11	3333.33	10-28-86	David L. Jensen
#12	3333.33	10-28-86	Mark & Nancy Jensen
#13	3333.33	10-28-86	Delbert & Clara Jensen, Joint Tenants With Full Rights of Survivorship
		02-01-99	to David & Mark Jensen, equal Tenants in Common
	49,999.99	<u>Total Outstanding Shares</u>	
	24,999.995	½ Mark	
	24,999.995	½ David	



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Delbert Scott Jensen Clara Anderson Jensen
as joint tenants with full right of survivorship
and not as tenants in common

This Certificate that

Five Thousand

fully paid and non-assessable shares

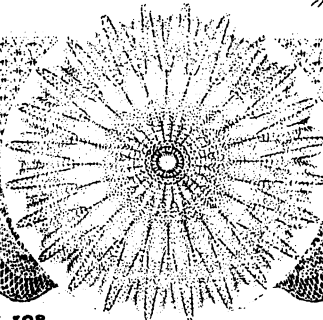
of the Capital Stock of A & D JENSEN CONTRACTORS

*transferable only on the books of the Corporation by the holder hereof in person or by
duly authorized Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation
this tenth day of May A.D. 1957*

Delbert Scott Jensen
SECRETARY

Clara Anderson Jensen
PRESIDENT



For Value Received, herely sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

529-35-2155

Mark Alfred Jensen

Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

Attorney
to transfer the said Shares on the books of the within named
Corporation with full power of substitution in the premises.

Dated Feb 1 1999

In presence of Uweell Jensen

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER

SIGNATURE GUARANTEED
MEDALLION GUARANTEED
ZIONS FIRST NATIONAL BANK

Dana D. Lundberg
NOTED SIGNATURE

(55) 33'0602
SECURITIES TRANSFER COMPANY, INC. ST. LOUIS, MO. 63102

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year;
3 parallel incisions lengthwise thru stamp at time of aff
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

CERTIFICATE No. 1 FOR 5000 SHARES

ISSUED TO

Robert Scott Jensen

Clara Anderson Jensen

as joint tenants with full right
of survivorship and not abatement in common
DATED May 10 191967

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NEW CERTIFICATES ISSUED TO:	NUMBER OF SHARES TRANSFERRED	NUMBER OF CERTIFIC

NUMBER 2

SHARES 5000



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Delbert Scott Jensen Clara Anderson Jensen
as joint tenants with full right of survivorship
and not as tenants in common

Three Hundred and

Five Thousand

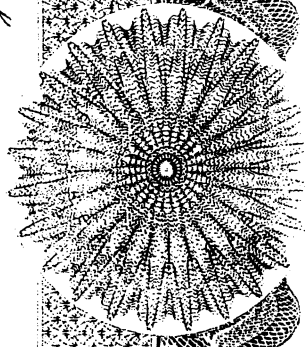
fully paid and non-assessable Shares

of the Capital Stock of A & D JENSEN CONTRACTORS

*transferable only on the books of the Corporation by the holder thereof, in person or by
duly authorized. After receipt upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation.*

this tenth day of May A.D. 1967



Delbert Scott Jensen
SECRETARY

Clara Anderson Jensen
PRESIDENT

For Value Received, _____ hereby sell, assign, and transfer unto
PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

529-35-2155

Mark Alfred Jensen

_____ Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

_____ Attorney
to transfer the said Shares on the books of the within named
Corporation with full power of substitution in the premises.

Dated Feb 1 1999

In presence of

_____ Clara A. Jensen

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER

SIGNATURE GUARANTEED
MEDALLION GUARANTEED
ZIONS FIRST NATIONAL BANK

_____ Donna L. Scholz

(551) 50105024
SECURITIES TRANSFER AGENTS MEDALLION PROGRAM

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; n
3 parallel incisions lengthwise thru stamp at time of affix
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

CERTIFICATE No. 2 FOR 5000 SHARES

ISSUED TO

Delbert Scott Jensen Clara Anderson Jensen
as joint tenants with full right of
survivorship and not as tenants in common

DATED May 10 1967

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER

NUMBER OF
ORIGINAL SHARES

NUMBER OF SHARES
TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NUMBER OF SHARES
TRANSFERRED

NUMBER OF NEW
CERTIFICATES

NUMBER 3

SHARES 5000



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Emron Alfred Jensen Melva Brinphurst Jensen
as joint tenants with full right of survivorship
and not as tenants in common

is the owner of

This Certifies that

Five Thousand

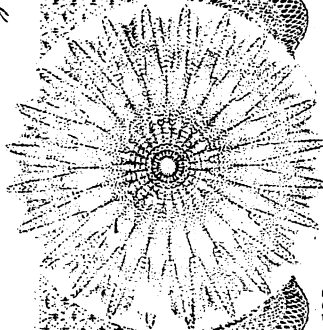
fully paid and non-assessable Shares

of the Capital Stock of A & D JENSEN CONTRACTORS

transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation

this 10 May 1913



Robert L. Jensen
SECRETARY

Harold H. Jensen
PRESIDENT

For Value Received, _____ hereby sell, assign, and transfer, unto
PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

529-25-3313

David Leon Jensen

Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

Attorney
to transfer the said Shares, on the books of the within named
Corporation, with full power of substitution, in the premises.

Dated February 22 1985

In presence of
SIGNATURE GUARANTEED
FIRST SECURITY BANK OF UTAH
NATIONAL ASSOCIATION

Emron Alfred Jensen
Melva Bringhurst Jensen

By



NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 3 FOR 5000 SHARES

ISSUED TO

Emron Alfred Jensen Mahua Bingshurn Jensen
as joint tenants with full right of survivorship
and not as tenants in common

DATED May 10 1967

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER

NUMBER OF
ORIGINAL SHARES

NUMBER OF SHARES
TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NUMBER OF SHARES
TRANSFERRED

NUMBER OF NEW
CERTIFICATES

NUMBER 1



5000

INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Five Quittances that

Five Thousand

Emron Alfred Jensen Melva Brimhurst Jensen
as joint tenants with full right of survivorship
and not as tenants in common

Witness my hand

of the Capital Stock of A & D JENSEN CONTRACTORS

*transferrable only upon the books of the Corporation by the holder thereof in person or by
duly authorized Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation.*

this tenth day of May A.D. 19 57

1957
SECRETARY

President
PRESIDENT

EXCELSIOR-LEGAL STATIONERY CO., INC., 49 PARK PLACE, NEW YORK

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:

In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 4 FOR 5000 SHARES

ISSUED TO

Emmon Alfred Jensen Melva Brughart Jensen
as joint tenants with full right of survivorship
and not as tenants in common

DATED May 10 1967

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

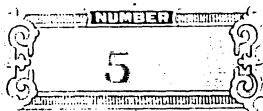
DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NEW CERTIFICATES ISSUED TO:	NUMBER OF SHARES TRANSFERRED	NUMBER OF NEW CERTIFICATES



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Arnell Vall Jensen Norine Lorensen Jensen
as joint tenants with full right of survivorship
and not as tenants in common

This Certifies that

Five Thousand

is the owner of

fully paid and non-assessable shares

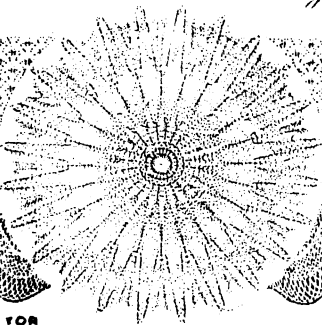
of the Capital Stock of A & D JENSEN CONTRACTORS

*transferable only on the books of the Corporation by the holder hereof in person or by
duly authorized Attorney upon surrender of this Certificate properly endorsed*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation
this tenth day of May A.D. 19 61*

Robert S. Jensen
SECRETARY

Arnell V. Jensen
PRESIDENT



For Value Received, we
hereby sell, assign and transfer unto..... David L. Jensen and Mark A. Jensen
as equal tenants in common, of Richfield, Utah
-----Five Thousand----- (5,000) Shares of the
Capital Stock of the..... A & D JENSEN CONTRACTORS
standing in.....our.....name on the books of said..... corporation
represented by Certificate No.....-5-.....herewith and do hereby irrevocably constitute and appoint
.....attorney to transfer the said stock on the books of the
within named Company with full power of substitution in the premises.

Dated..... May 21, 1985
.....ARNELL V. JENSEN..... Guaranteed
.....NORINE LORESEN JENSEN.....

.....Arnell V. Jensen..... Norine L. Jensen
.....Arnell V. Jensen..... Norine Lorensen Jensen
Signature guaranteed

In Presence of.....
.....

.....
Signature..... Title..... Date.....
5-21-85

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 5 FOR 5000 SHARES

ISSUED TO

Arnold P. Vell Jensen Marie Larsen Jensen
as joint tenants with full right of survivorship
and not as tenants in common

DATED May 10 1967

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19 _____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

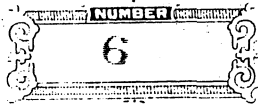
DATED _____ 19 _____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NEW CERTIFICATES ISSUED TO:	NUMBER OF SHARES TRANSFERRED	NUMBER OF NEW CERTIFICATES



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

This Certifies that Arnell Vall Jensen Norine Lorensen Jensen
as joint tenants with full right of survivorship
and not as tenants in common *is the owner of*
Five Thousand *fully paid and non-assessable shares*

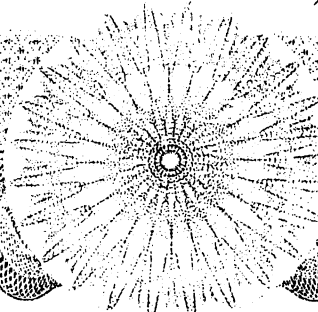
of the Capital Stock of A & D JENSEN CONTRACTORS

*transferable only on the books of the Corporation by the holder hereof in person or by
duly authorized Attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation
this* *tenth* *day of* *May* *A.D. 19* *67*

Robert L. Smith
SECRETARY

Arnell V. Jensen
PRESIDENT



For Value Received, we
hereby sell, assign and transfer unto David L. Jensen and Mark A. Jensen, as
..... equal tenants in common, of Richfield, Utah
.....
-----Five Thousand----- (5,000) Shares of the
Capital Stock of the A & D JENSEN CONTRACTORS
standing in our name on the books of said corporation
represented by Certificate No. -6- herewith and do hereby irrevocably constitute and appoint
..... attorney to transfer the said stock on the books of the
within named Company with full power of substitution in the premises.

Dated May 21, 1985

Signature of ARNELL V. JENSEN Guarantor
NORINE L. JENSEN

Arnell V. Jensen Norine L. Jensen
Arnell V. Jensen Norine L. Jensen
Arnell V. Jensen Norine L. Jensen
Signature guaranteed

In Presence of
ZIGGS FIDELITY NATIONAL BANK
RICHFIELD OFFICE RICHFIELD, UTAH

Linda H. Anderson Notary Public 5-21-85

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; m
3 parallel incisions lengthwise thru stamp at time of affix
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

CERTIFICATE No. 6 FOR 5000 SHARES

ISSUED TO

Arnell Vall Jensen Marie Lorensen Jensen
as joint tenants with full right of survivorship
and not as tenants in common

DATED May 10 19 67

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19 _____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19 _____

ORIGINAL CERTIFICATE NUMBER

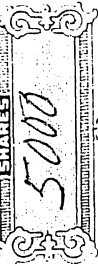
NUMBER OF
ORIGINAL SHARES

NUMBER OF SHARES
TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NUMBER OF SHARES TRANSFERRED	NUMBER OF N CERTIFICATE
---------------------------------	----------------------------



INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Lars Lepm Jensen Leda Jensen
as joint tenants with full right of survivorship
and not as tenants in common

This Certificate

Five Thousand

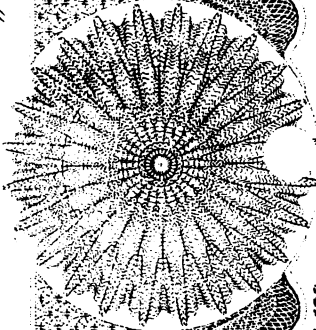
fully paid and non-assessable shares

of the Capital Stock of A & D JENSEN CONTRACTORS

*transferable only on the books of the Corporation by the holder hereof in person or by
duly authorized attorney upon surrender of this Certificate properly endorsed.*

*In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and to be sealed with the Seal of the Corporation*

this tenth day of May A.D. 19 67



SECRETARY

PRESIDENT

For Value Received,
PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

hereby sell, assign, and transfer, unto

Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

Attorney
to transfer the said Shares, on the books of the within named
Corporation, with full power of substitution in the premises.

Dated Jan 10 1985

In presence of

Edna M. Juske
Notary Public

Leda Jensen

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE. IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 7 FOR 5000 SHARES

ISSUED TO

Lars Leon Jensen Leda Jensen
as joint tenants with full right of survivorship
and not as tenants in common

DATED May 10 1967

RECEIVED CERTIFICATE No. 7 FOR 5,000 SHARES

THIS _____ DAY OF May 1985

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

Arnell V. Jensen & Noeline
L. Jensen, husband and
wife as joint tenants
with full rights of
Survivorship

NUMBER OF SHARES TRANSFERRED	NUMBER OF NEW CERTIFICATES
<u>5,000</u>	<u>9</u>



NUMBER 8

SERIAL 5000

INCORPORATED UNDER THE LAWS OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

Lars Leon Jensen Leda Jensen

as joint tenants with full right of survivorship
and not as tenants in common

This Certificate represents

Five Thousand

dollars paid and now receivable thereon

of the Capital Stock of A & D JENSEN CONTRACTORS

transferable only on the books of the Corporation by the holder thereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation this tenth day of May A.D. 1905

Edith Jensen
SECRETARY

Alfred Jensen
PRESIDENT

For Value Received, _____ hereby sell, assign, and transfer, unto
PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

Attorney
to transfer the said Shares, on the books of the within named
Corporation, with full power of substitution, in the premises.

Dated Jan. 13 1920

In presence of

Leda Jensen *Sara Georg Jensen*

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE. IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year
3 parallel incisions lengthwise thru stamp at time of
Stamp shall not be so defaced as to prevent re-
termination of its denomination and genuineness.

CERTIFICATE No. 8 FOR 5000 SHARES

ISSUED TO

Lars Leon Jensen Lesla Jensen
as joint tenants with full right of
survivorship and not as tenants in common

DATED May 10 19 67

RECEIVED CERTIFICATE No. 8 FOR 5,000 SHARE

THIS _____ DAY OF May 19 67

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19 _____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

Arnell V. Jensen & Minnet
Jensen Husband & wife
joint tenants with full
right of survivorship

NUMBER OF SHARES TRANSFERRED	NUMBER CERTIFIED
<u>5,000</u>	<u>1</u>

NUMBER 3



SHARES 5,000

INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

This Certificate

---FIVE THOUSAND (5,000)-----

is hereby paid and now represents

of the Capital Stock of A & D JENSEN CONTRACTORS

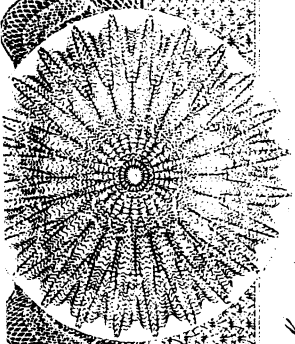
ten thousand dollars on the basis of the Corporation by the holder thereof in person or by duly authorized officer in person or by duly authorized attorney in person or by duly authorized agent.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

this day of April 19

John L. Jensen
SECRETARY

Wm. S. Jensen
PRESIDENT



For Value Received,.....we
hereby sell, assign and transfer unto.....DAVID L. JENSEN and MARK A. JENSEN, as.....
.....equal tenants in common, of Richfield, Utah.....
-----Five Thousand----- (.5,000) Shares of the.....
Capital Stock of the.....A & D JENSEN CONTRACTORS.....
standing in our.....name on the books of said.....corporation.....
represented by Certificate No.....-9-.....herewith and do hereby irrevocably constitute and appoint
.....attorney to transfer the said stock on the books of the
within named Company with full power of substitution in the premises

Dated.....May 21, 1985.....

.....of ARNELL V. JENSEN.....Guaranteed
.....NORINE L. JENSEN.....

.....Arnell V. Jensen.....
Arnell V. Jensen

.....Norine L. Jensen.....
Norine L. Jensen

In Presence of.....
.....FIDELITY BANK
.....RICHFIELD, UTAH

.....
Signature guaranteed

.....Sandra L. Peterson.....
.....5-21-85.....

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; make
3 parallel incisions lengthwise thru stamp at time of affixing
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

CERTIFICATE No. 9 FOR 5,000 SHARES

ISSUED TO

Arnell V. Jensen & Moina L. Jensen
husband and wife as joint tenants
with full right of survivorship & not
as tenants in common
DATED May 19 85

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19 _____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

Lars Leon Jensen & Lida Jensen

DATED _____ 19 _____

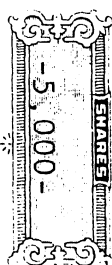
ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED
<u>7</u>	<u>5,000</u>	<u>5,000</u>

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:	NUMBER OF SHARES TRANSFERRED	NUMBER OF NE CERTIFICATES



10



5,000

INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

These Conditions Shall

---FIVE THOUSAND (5,000)---

be paid and now receivable Shares

of the Capital Stock of A & D JENSEN CONTRACTORS

from the date of the incorporation of the said corporation, the said corporation having been duly authorized to issue and sell this certificate for the purpose of raising capital.

In Witness Whereof, the said corporation has caused this certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation

this day of *April*, 19*19*

Donald Jensen
SECRETARY

Donald Jensen
PRESIDENT

For Value Received,..... we
hereby sell, assign and transfer unto..... David L. Jensen and Mark A. Jensen, as equal.....
tenants in common,.....
-----Five Thousand----- (5,000) Shares of the.....
Capital Stock of the..... A & D JENSEN CONTRACTORS.....
standing in..... our..... name on the books of said..... corporation.....
represented by Certificate No..... -10-..... herewith and do hereby irrevocably constitute and appoint
..... attorney to transfer the said stock on the books of the
within named Company with full power of substitution in the premises.

Dated..... May 21, 1985.....
ARNELL V. JENSEN..... NORINE L. JENSEN.....
ARNELL V. JENSEN..... NORINE L. JENSEN.....

In Presence of

Signature guaranteed

Signature..... Date.....
5-21-85

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; in
3 parallel incisions lengthwise thru stamp at time of affixing
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

10

CERTIFICATE No. _____ FOR 5,000 _____ SHARES

ISSUED TO

*Arnold V. Jensen & Haine L. Jensen, Husband
& wife as joint tenants with full
rights of survivorship & not as
tenants in common*
DATED *May* 19*85*

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19 _____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

Lars Lem Jensen & Leda Jensen

DATED _____ 19 _____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED
8	5,000	5,000

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

	NUMBER OF SHARES TRANSFERRED	NUMBER OF CERTIFICATES

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year; make
3 parallel incisions lengthwise thru stamp at time of affixing
Stamp shall not be so defaced as to prevent ready determination
of its denomination and genuineness.

CERTIFICATE No. 11 FOR 3333.33 SHARES

ISSUED TO

David Leon Jensen

DATED Oct 28 1986

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER

NUMBER OF
ORIGINAL SHARES

NUMBER OF SHARES
TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NUMBER OF SHARES
TRANSFERRED

NUMBER OF NEW
CERTIFICATES

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:

In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 12 FOR 3333.33 SHARES

ISSUED TO

Mark Alfred Jensen Nancy Lynn Evans
Jensen as wife and joint tenants with
full rights of survivorship and not as
tenants in common.

DATED October 28, 1986

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER

NUMBER OF
ORIGINAL SHARES

NUMBER OF SHARES
TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NUMBER OF SHARES
TRANSFERRED

NUMBER OF
CERTIFICATES

NUMBER 13



SHARES 33

INCORPORATED UNDER THE LAWS OF THE STATE OF UTAH

A & D JENSEN CONTRACTORS

Authorized Capital Stock \$50,000 — Par Value \$1 Per Share

DEARST SEPT JENSEN CLARA ANDERSON JENSEN
AS SEVERAL TENANTS WITH FULL RIGHT OF
SUCCESSIONSHIP AND NOT AS TENANTS IN

Three Quarters Paid

COLLARD

is the owner of

THREE HUNDRED THIRTY THREE 33

fully paid and now, admissible Shares

of the Capital Stock of A & D JENSEN CONTRACTORS

transferred to and upon the books of the Corporation by the order of the Board of Directors, in person or by duly authorized officers or upon the order of this Certificate properly endorsed.

In Witness Whereof the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

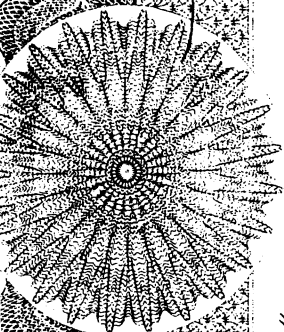
This TWENTY EIGHT day of October A.D. 1920

Secretary

SECRETARY

President

PRESIDENT



For Value Received, _____
PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

519-25-3313

529-35-2155

David Leon Jensen and Mark A. Jensen

as equal tenants in common Shares
represented by the within Certificate, and do hereby
irrevocably constitute and appoint

Attorney
to transfer the said Shares on the books of the within named
Corporation, with full power of substitution, in the premises.

Dated Feb 1, + 1999

In presence of

Clara A. Jensen

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE. IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

SIGNATURE GUARANTEED
MEDALLION GUARANTEED
ZIONS FIRST NATIONAL BANK

Donna Greenwald

(55) 50106821
SECURITIES TRANSFER AGENTS MEDALLION PROGRAM

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
In ink, mark stamps with initials, day, month and year;
3 parallel incisions lengthwise thru stamp at time of affixing
Stamp shall not be so defaced as to prevent ready
termination of its denomination and genuineness.

CERTIFICATE No. 13 FOR 3333.33 SHARES

ISSUED TO

Delbert Scott Jensen Clara Anderson Jensen

As wife and joint tenants with full
rights of survivorship and not as tenants
in common

DATED October 28 1986

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

ORIGINAL CERTIFICATE NUMBER	NUMBER OF ORIGINAL SHARES	NUMBER OF SHARES TRANSFERRED

Transfer Details For Surrendered Certificates

NEW CERTIFICATES ISSUED TO:

NEW CERTIFICATES ISSUED TO:	NUMBER OF SHARES TRANSFERRED	NUMBER OF NEW CERTIFICATES