

# The Supreme Court of South Carolina

In the Matter of John  
Meadows Williamson, III,

Respondent.

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## ORDER

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The Office of Disciplinary Counsel petitions this Court for an order transferring respondent, whose practice was formerly located at 3922 Rosewood Drive, Columbia, South Carolina, to incapacity inactive status pursuant to Rule 17(b), RLDE, Rule 413, SCACR. Respondent consents to the petition.

IT IS ORDERED that respondent is transferred to incapacity inactive status until further order of this Court.

IT IS FURTHER ORDERED that Edwin Russell Jeter, Jr., Esquire, is hereby appointed to assume responsibility for respondent's client files, trust account(s), escrow account(s), operating account(s), and any other accounts into which respondent may have deposited client or trust monies. Mr. Jeter shall take action as required by Rule 31, RLDE, Rule 413, SCACR, to protect the interests

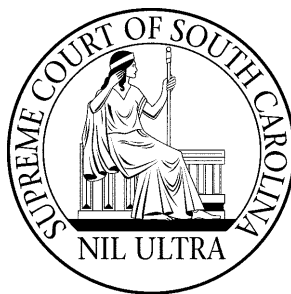
of respondent's clients. Mr. Jeter has authority to make disbursements from respondent's trust, escrow, and/or operating account(s) as is reasonably necessary and may apply to the Chair of the Commission on Lawyer Conduct for authority to make any disbursements that appear to be unusual or out of the ordinary.

IT IS FURTHER ORDERED that this Order, when served on any bank or other financial institution maintaining trust, escrow and/or operating account(s) of respondent, shall serve as notice to the bank or other financial institution that Edwin Russell Jeter, Jr., Esquire, has been duly appointed by this Court.

Finally, this Order, when served on any office of the United States Postal Service, shall serve as notice that Edwin Russell Jeter, Jr., Esquire, has been duly appointed by this Court and has the authority to receive respondent's mail and the authority the direct that respondent's mail be delivered to Mr. Jeter's office.

s/Jean H. Toal C.J.

Columbia, South Carolina  
November 29, 2001



**OPINIONS  
OF  
THE SUPREME COURT  
AND  
COURT OF APPEALS  
OF  
SOUTH CAROLINA**

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**December 10, 2001**

**ADVANCE SHEET NO. 43**

**Daniel E. Shearouse, Clerk  
Columbia, South Carolina**

**[www.judicial.state.sc.us](http://www.judicial.state.sc.us)**

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**THE STATE OF SOUTH CAROLINA**  
**In The Supreme Court**

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In the Matter of George  
Eugene Lafaye, IV,                      Respondent.

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Opinion No. 25387  
Submitted October 30, 2001 - Filed December 3, 2001

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**DEFINITE SUSPENSION**

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Henry B. Richardson, Jr., and Michael S. Pauley,  
both of Columbia, for the Office of Disciplinary  
Counsel.

George Eugene Lafaye, IV, of Greenville, Pro Se.

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**PER CURIAM:** In this attorney disciplinary matter, respondent and the Office of Disciplinary Counsel (ODC) have entered into an Agreement for Discipline by Consent pursuant to Rule 21, RLDE, Rule 413, SCACR. In the agreement, respondent admits misconduct and consents to the imposition of any sanction set forth in Rule 7(b), RLDE, Rule 413, SCACR, which this Court finds appropriate. We accept the agreement and find that a one-year suspension from the practice of law is the appropriate sanction for respondent's misconduct. The facts as admitted in the agreement are as follows.

## **Facts**

In the first matter, respondent's law firm was retained to represent a party in a negligence action. The circuit court granted summary judgment against the client. Although respondent assured the client that he would pursue an appeal, respondent failed to file either a motion to reconsider or a Notice of Appeal. Respondent actively misled both a member of his law firm and the client by telling them that an appeal had been filed. Respondent also failed to file a timely response to inquiries from ODC regarding this matter.

In a second matter, respondent's law firm was retained to represent a landowner in an inverse condemnation action. The action was settled, and a portion of the proceeds was held in the firm's escrow account to satisfy liens on the property. Respondent advanced funds to the client in violation of the terms of the escrow agreement and without notifying or obtaining consent from the attorneys representing the lien holders.

In a third matter, respondent was retained to represent a client who had been injured in an automobile accident. After the jury returned a verdict in favor of the client, respondent failed to immediately satisfy a medical provider's lien on the judgment. When the medical provider complained, respondent satisfied the lien from his firm's trust account. At the time respondent uttered the check, there were no funds in the trust account belonging to the client or to the medical provider. Although respondent admits that the payment was made without the firm's authorization, he claims that the funds came from an earned, but unpaid, attorney's fee.

## **Law**

Respondent admits that his conduct violated the following provisions of the Rules of Professional Conduct, Rule 407, SCACR: Rule 1.1 (failing to provide competent representation); Rule 1.3 (failing to act with reasonable diligence and promptness while representing a client); Rule 1.4

(failing to keep a client reasonably informed about the status of a matter); Rule 1.15 (failing to properly safeguard funds belonging to a third party and failing to promptly notify the owner of funds upon receipt); Rule 8.1 (failing to respond to a lawful demand for information from a disciplinary authority); Rule 8.4(a) (violating the Rules of Professional Conduct); Rule 8.4(c) (engaging in conduct involving moral turpitude); 8.4(d) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and 8.4(e) (engaging in conduct that is prejudicial to the administration of justice).

Respondent also admits that he violated the following provisions of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR: Rule 7(a)(1) (violating rules regarding the professional conduct of lawyers); Rule 7(a)(3) (failing to respond to a lawful demand from a disciplinary authority); Rule 7(a)(5) (engaging in conduct tending to pollute the administration of justice, bringing the legal profession into disrepute, and demonstrating an unfitness to practice law); and Rule 7(a)(6) (wilfully violating the oath of office taken upon admission to practice law in this state).

### **Conclusion**

We find that respondent's misconduct warrants a definite suspension. Accordingly, we accept the Agreement for Discipline by Consent and suspend respondent from the practice of law for one year.

Within fifteen days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30 of Rule 413, SCACR.

### **DEFINITE SUSPENSION.**

**TOAL, C.J., MOORE, WALLER, BURNETT and  
PLEICONES, JJ., concur.**

**THE STATE OF SOUTH CAROLINA**  
**In The Supreme Court**

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In the Matter of Olin L.  
Purvis, III, Respondent.

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Opinion No. 25388  
Heard November 15, 2001 - Filed December 10, 2001

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DISBARRED

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Attorney General Charles M. Condon and Assistant  
Attorney General Tracey Colton Green, both of  
Columbia, for the Office of Disciplinary Counsel.

Olin L. Purvis, III, pro se, respondent.

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**PER CURIAM:** In this attorney disciplinary matter, the sub-panel and the full panel recommended respondent Olin L. Purvis, III, be disbarred. We agree and disbar respondent.

**FACTS**

The Commission on Lawyer Conduct filed formal charges against respondent regarding numerous matters. Respondent was placed on interim suspension on January 6, 2000. In re Purvis, 338 S.C. 113, 526 S.E.2d 512 (2000). Respondent did not answer the formal charges, was found in default by the sub-panel, and did not appear at the hearing.

### **Matter 1**

Respondent represented Ann Dunham, a purchaser in a real estate transaction. Respondent accepted funds designated for the purchase of title insurance; however, he failed to obtain the title insurance policy for Dunham. Subsequently, respondent ignored repeated attempts by Dunham to obtain information about the title insurance, and he failed to return her phone calls. Although Disciplinary Counsel notified respondent of Dunham's complaint, respondent failed to respond. After being notified that a full investigation of Dunham's complaint had been initiated, respondent failed to respond to the notice within 30 days, but eventually he responded and submitted to an examination under oath by Disciplinary Counsel.

### **Matter 2**

Paula Pyle, a victim's advocate, filed a complaint against respondent alleging that respondent had verbally abused her during a telephone conversation. Although Disciplinary Counsel notified respondent of this complaint, respondent failed to respond. After being notified that a full investigation of the complaint had been initiated, respondent failed to respond to the notice within 30 days, but eventually he submitted to an examination under oath by Disciplinary Counsel.

### **Matter 3**

Barry and Janice Dodson retained respondent to represent them in a wrongful death action. The insurance company for the defendant in the action tendered the policy limits to respondent with the understanding that the proceeds would be held in escrow pending court approval of the settlement. Despite respondent's agreement with the insurance company, he disbursed the funds to the Dodsons without first obtaining court approval of the settlement. Respondent never sought court approval for the disbursements as was required and as he agreed to do.

Although Disciplinary Counsel notified respondent of this

complaint, respondent failed to respond. Disciplinary Counsel subsequently notified respondent that a full investigation of the complaint had been initiated; however, the notice was returned, marked “unclaimed.” Respondent was again notified of the investigation. Respondent failed to respond to this second notice, but eventually he submitted to an examination under oath by Disciplinary Counsel.

#### **Matter 4**

In April 1996, Patricia Roetger was injured at her place of employment while working. She retained respondent to represent her in a worker’s compensation claim and executed a written fee agreement in November 1997. Respondent, however, failed to file the required forms or otherwise file a claim on behalf of Roetger with the Worker’s Compensation Commission. As a result of respondent’s failure to act on Roetger’s case, her worker’s compensation claim is now barred by the statute of limitations.

Moreover, when Roetger was able to contact respondent, he falsely advised her that she could expect a hearing in the near future. At other times, respondent was not present to meet with Roetger even though she arrived timely for previously scheduled meetings. Respondent failed to communicate with Roetger about her case. When Roetger finally terminated respondent in 1998, he failed to provide her with copies of all documents in her file.

Roetger also retained respondent regarding a divorce action. Respondent failed to diligently represent Roetger’s interests with respect to the divorce and failed to communicate with her on this matter.

Disciplinary Counsel notified respondent of Roetger’s complaint; however, he failed to respond. He also failed to respond to subsequent notice of a full investigation of Roetger’s complaint.

#### **Matter 5**

Respondent represented Gretchen Johnson regarding injuries she



sustained in an automobile accident. Johnson had previously been represented by Mr. Stark, and while represented by Stark, an offer of settlement was obtained for Johnson. Stark advised respondent, Johnson, and the insurance company that he expected to be compensated from any settlement for \$3,356.75 in fees and costs. This amount was based on the offer of settlement previously obtained for Johnson. In a letter dated June 23, 1998, respondent represented to the insurance adjuster that he would protect the interests of both Stark and any medical providers in the case. Respondent eventually settled Johnson's case for \$15,000, which was paid by the insurance carrier via a check written to respondent, Johnson and Stark.

On September 18, 1998, respondent sent Stark a copy of a check from respondent's trust account which was payable to Stark's law firm in the amount of \$3,356.75. Along with this copy, respondent sent Stark a proposed disbursement schedule which indicated disbursement of funds to Stark. Relying on respondent's representations, Stark endorsed the settlement check and forwarded it to respondent. On October 16, 1998, Stark learned that the medical providers in Johnson's case had been paid. Stark wrote respondent requesting that respondent forward him the check as previously agreed. When respondent failed to respond to the October 16<sup>th</sup> letter, Stark sent a second letter on November 3, 1998. Respondent failed to respond, and Stark sent a third letter in December. Respondent ignored Stark's repeated requests for payment.

In April 1999, Disciplinary Counsel sent respondent a letter regarding Stark's complaint, but respondent failed to respond. Likewise, respondent failed to respond to Disciplinary Counsel's notice of a full investigation of this complaint.

### **Matter 6**

Ellen Creel retained respondent to institute a medical malpractice action. For over a year after he was retained, respondent failed to communicate with Creel about her case. During this time, respondent failed to respond to multiple phone calls from Creel. When Creel finally managed to speak with respondent, he advised her that he had mailed an explanatory letter to her.

Creel, however, never received the explanatory letter and never was able to speak with respondent again.

Disciplinary Counsel notified respondent of Creel's complaint, but he failed to respond. Although Disciplinary Counsel subsequently notified respondent that a full investigation on this complaint had been initiated, respondent failed to respond.

### **Matter 7**

William S. Sigmon retained respondent to represent him in an action against the Horry County Police Department and Officer B. Rogers. Sigmon paid \$500 to respondent as a retainer for "out of pocket expenses." Respondent failed to: (1) institute the action on behalf of Sigmon; (2) communicate with Sigmon regarding the status of his case; and (3) respond to multiple phone calls and letters from Sigmon.

Disciplinary Counsel notified respondent of Sigmon's complaint, but he failed to respond. Although Disciplinary Counsel subsequently notified respondent that a full investigation had been initiated, he failed to respond to this notice as well.

### **Matter 8**

Cindy Purvis, respondent's former wife, filed a complaint against respondent.<sup>1</sup> Disciplinary Counsel notified respondent of this complaint, but he failed to respond. Moreover, when Disciplinary Counsel subsequently notified respondent that a full investigation had been initiated, he failed to respond.

### **Matters 9 and 10**

Dr. Scott J. Willis and Dr. Steven Hannigan, both chiropractors,

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<sup>1</sup>This matter involves respondent's alleged failure to pay child support.

filed separate complaints against respondent.<sup>2</sup> Although Disciplinary Counsel notified respondent of these complaints, he failed to respond. Moreover, when Disciplinary Counsel subsequently notified respondent that a full investigation had been initiated on these complaints, he failed to respond to the notification.

### **Matter 11**

Mr. Rees retained respondent in order to represent Rees' daughter in a personal injury matter. The matter concluded in the daughter's favor, and respondent withheld funds from the jury award to pay certain medical bills. Respondent failed, however, to use the retained funds to satisfy the client's bills, and respondent misappropriated the funds. Furthermore, respondent failed to respond to the client's repeated inquiries regarding payment of the bills.

Respondent failed to respond to Disciplinary Counsel's notifications about this complaint, as well as to Disciplinary Counsel's notifications that a full investigation had been initiated.

### **Matter 12**

Barry Kennell retained respondent for \$675 to handle a debt collection matter. Despite holding the matter for over one year, respondent failed to take any legal action on behalf of Kennell. Because of respondent's lack of diligence and his failure to communicate, Kennell was ultimately forced to retain new counsel. Respondent did not issue Kennell a refund of the unearned retainer fee. Respondent failed to respond to Disciplinary Counsel's notices regarding the complaint and the initiation of a full investigation.

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<sup>2</sup>These matters involve similar situations. Respondent is charged with not paying the chiropractors who treated respondent's clients despite the fact that respondent settled the clients' claims and obtained the settlement funds.

### **Matter 13**

On several occasions, respondent hired Glenda M. Kemp's court reporting agency to perform services in connection with his law practice. Respondent failed to pay invoices submitted by Kemp's agency over a period of several months, eventually accumulating a total account balance of approximately \$1,534. Respondent refused to communicate with the agency about payment of the invoices. Respondent failed to respond to Disciplinary Counsel's notices regarding the complaint and the initiation of a full investigation.

### **Matter 14**

Karen L. Teixeira retained respondent to represent her in a domestic matter. Respondent failed to properly communicate with Teixeira. Although Disciplinary Counsel notified respondent about the complaint and the initiation of a full investigation, respondent failed to respond to the notices.

### **Matter 15**

In December 1996, respondent was retained to handle a real estate closing for Sergio B. Mendoza and Jose Boyzo. After the closing, respondent forwarded the original note to the lender as required, but failed to forward the original mortgage, the bank fees, or any other original documents executed in connection with the closing. Thereafter, respondent refused to respond to numerous inquiries from the lender. Respondent failed to file the deed and mortgage after closing.

Additionally, respondent retained funds to satisfy property taxes assessed against the closing property, but failed to satisfy the property tax bill. As a result, the property was sold for non-payment of taxes. Respondent failed to respond to numerous inquiries from the seller regarding the property tax situation. Because of respondent's actions, the buyers were forced to pay another attorney to conduct a second closing, causing them to incur additional costs to redeem the property from the tax sale.

Respondent failed to respond to Disciplinary Counsel's notices regarding the complaint and the initiation of a full investigation.

### **Matter 16**

In 1992, Icyean R. Wallace retained respondent for the purpose of instituting an action against GMC Corporation. Respondent failed to diligently attend to Wallace's case and failed to take appropriate legal action on her behalf. As a result, Wallace's case was dismissed. Moreover, respondent failed to notify Wallace when he relocated his law practice, and failed on several occasions to appear for scheduled court dates. Respondent has refused to release Wallace's file to her. In addition, respondent failed to notify Wallace of his suspension from the practice of law, as required by Rule 30, RLDE, Rule 413, SCACR.

Respondent failed to respond to Disciplinary Counsel's notices regarding the complaint and the initiation of a full investigation.

### **Panel's Findings**

The Panel<sup>3</sup> found several grounds for discipline and recommended disbarment. Specifically, the Panel found respondent has violated the following subsections of Rule 7(a) of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR: (1) violating the Rules of Professional Conduct; (5) engaging in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law; and (6) violating the oath of office taken upon admission to practice law in this state.

In addition, respondent violated the following Rules of Professional Conduct, Rule 407, SCACR: (1) Rule 1.1, failing to provide competent representation; (2) Rule 1.2, failing to abide by a client's decisions regarding the

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<sup>3</sup>The full panel adopted the report of the sub-panel.



multiple acts of misconduct. See, e.g., Matter of Driggers, 334 S.C. 40, 512 S.E.2d 112 (1999) (attorney disbarred for failing to provide competent representation, keep clients informed, consult with clients, promptly account for and deliver funds and documents, misappropriation of funds, and knowing failure to respond to disciplinary proceedings); Matter of Godbold, 336 S.C. 568, 521 S.E.2d 160 (1999) (attorney disbarred for failing to remit settlement funds to clients, remit funds to clients' medical providers, failing to pay bills, and failing to file state and federal tax returns); Matter of Glee, 333 S.C. 9, 507 S.E.2d 326 (1998) (attorney disbarred for converting client funds for his own purposes, failing to provide competent representation, failing to comply with demand for payment, failing to act with reasonable diligence, failing to keep client informed about status of case, and engaging in conduct involving dishonesty).

Consequently, we disbar respondent and order him to pay the costs of the disciplinary proceedings. Within fifteen days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30 of the Rules for Lawyer Disciplinary Enforcement.

**DISBARRED.**

s/James E. Moore AC.J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

s/George T. Gregory, Jr. A.J.

# The Supreme Court of South Carolina

In the Matter of Donald Loren Smith, Respondent

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## O R D E R

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Respondent was suspended on December 3, 2001, for a period of six months, retroactive to March 1, 2001. He has now filed an affidavit requesting reinstatement pursuant to Rule 32, of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR.

The request is granted and he is hereby reinstated to the practice of law in this state.

JEAN H. TOAL, CHIEF JUSTICE

BY: Daniel E. Shearouse  
Clerk

Columbia, South Carolina

December 5, 2001





**HUFF, J.:** This is a cross appeal in a divorce action. The issues on appeal concern identification and valuation of marital property, equitable apportionment, child support, and contempt. We affirm in part, reverse in part and remand.

### **FACTUAL/PROCEDURAL BACKGROUND**

Richard T. Widman (Husband) and Dale Poulnot Widman (Wife) were married in 1981 on Valentine's Day. When they married, Husband was thirty-two years old and Wife was twenty-five years old. Husband earned a Masters of Business Administration in hotel and restaurant management at Michigan State University and worked as the General Manager of the Mills House Hotel in Charleston, South Carolina. Wife graduated magna cum laude from Duke University and worked in her family's business, Kerrison's Department Store.

Husband, who worked for Holiday Inn in a management position, received a job transfer to Detroit, Michigan, and after they were married, Wife joined Husband in Detroit. Wife's father subsequently requested that Wife come back to the family business. The parties agreed, and Wife moved back to Charleston in August of 1981. Husband continued to work for Holiday Inn, and the parties commuted for a period of time, until Husband quit his job and moved back to Charleston in the summer of 1982. After his return, Husband joined a venture to build King's Courtyard Inn in downtown Charleston. The inn was opened in November 1983 and was managed by Husband. During the early years, Husband earned money through some consulting work and drew a minimal salary for managing the inn. Thus, toward the beginning of the marriage, Wife generally earned greater income than Husband. This changed drastically, however, after Husband's venture in King's Courtyard Inn and several subsequent hotel inns began to reap substantial profits.

During the marriage, the parties accumulated a \$6,720,000.00 marital estate consisting of numerous inns and related businesses worth more than \$5,000,000.00, two marital homes with equity of more than \$900,000.00, as well as various stocks, bonds, life insurance, and pension plans. Additionally,

Husband's annual income grew to approximately \$450,000.00 while Wife's annual income remained around \$40,000.00. During the development years of the inns, Husband used earned income of the parties and distributions from ownership of the inns to reinvest into the businesses in order to promote their growth and viability. The inns are set up as limited partnerships with Husband as the general partner, which gives Husband the discretion of when to make a distribution from revenues and the amount of each distribution. Husband maintained control of the businesses' cash flow and the parties' income. Even after the inns were established and producing significant income, Husband continued to use his income and distributions to support the business. Money flowed freely between the business and personal accounts of the parties. Loans were made to the businesses from the parties' joint personal checking account; partnership shares were purchased out of the parties' joint personal checking account; and money was borrowed from the businesses to keep the family finances afloat. In addition, the personal and business accounts of the parties were used interchangeably by the parties.

Wife had no day-to-day responsibilities for the inns; however, she hosted several openings of new inns and entertained Husband's business associates. At Husband's insistence, Wife traveled with him out of the country, at the expense of her own professional responsibilities to Kerrison's. Wife also participated in the designing and writing of marketing brochures for the inns, and worked on a project for the Rutledge House Inn. Husband continually assured Wife that "the inns were their retirement."

Husband's parents made significant investments in the inns and advanced \$75,000.00 to the parties for development of one of the businesses. However, these were arm's length transactions. Husband's parents appear to have profited from the investments, and they obtained a note and mortgage on the parties' beach home as collateral for the \$75,000.00 loan. At the time of trial, the parties were still obligated to make monthly payments to repay this loan. Additionally, Husband's parents made generous monetary gifts over the years to Husband, Wife and the parties' children. Husband's father testified as to the various monetary gifts made to the parties over the years, and stated that many of the gifts were intended to help Husband in his business ventures. Husband's father testified, however, that all of the gifts were joint gifts to

Husband and Wife. The gifted monies were not kept separate and apart from marital funds. The check registers of various accounts show that money was used from any and all sources to support the cash flow of the businesses. Moreover, Husband's parents never asserted prior to litigation that the gifted monies were for anything other than the benefit of both parties and the support of the marriage.

During the marriage, Husband inherited \$192,000.00 from his aunt's estate. Husband testified he used some of these funds to purchase two shares of stock in the inn businesses. One share of stock was purchased from Ronald Hutcherson in the John Rutledge House. The other share was purchased from the Gary Olin Trust in the King's Courtyard Inn. Wife also owned nonmarital property which included 26 shares of Kerrison's stock, valued at \$100,000.00, a 1/3rd interest in the carriage house located behind her parent's home in downtown Charleston, and a 1/9th interest in an unimproved lot on Sullivan's Island.

Husband and Wife have three daughters, all three of whom were minors at the time of trial. Husband also has an adult daughter from a prior marriage. The parties employed a housekeeper/nanny to assist with the children and housework, but both parties contributed substantially to the needs of the children in the home. All three girls attend a private school, Ashley Hall School, where Wife is currently employed as the Director of Development. The tuition for all three girls is \$2,050.00 per month. The children also attend summer camps in North Carolina every year, which cost between \$1,815.00 and \$2,810.00 per child each summer.

Husband instituted this action in November 1997, after Wife's investigator confirmed Husband's adulterous affair with Linn Lesesne, the Director of Sales and Marketing for the management company formed by Husband to manage all the inns. Wife first became suspicious of the affair in October 1996 and confronted Husband on several occasions, but Husband continued to deny the relationship. Husband and Wife separated in April 1997, but began going to marriage counseling in an effort to save their marriage. However, Husband continued his affair with Linn Lesesne. Upon receiving the report from the investigator in August of 1997, Wife waited until Husband

returned from a trip to confront him with the report. Husband continued to deny the affair until a couple of weeks later. The marriage counselor testified that he believed Wife had been emotionally abused by Husband during the marriage and that Wife was more active in attempting to save the marriage.

Husband filed this action seeking, inter alia, joint custody of the parties' three minor children, or in the alternative extensive visitation, a determination of reasonable child support, and equitable division of the marital property. Husband also sought a temporary order restraining Wife from harassing him or interfering with his right to a peaceful existence, as well as from using vulgar, profane language or making disparaging remarks about him in the presence of his children.

Wife answered and counter-claimed seeking, among other things, a divorce on the ground of adultery, custody, child support, alimony, equitable apportionment of marital property, and an order restraining Husband from exposing their children to his extramarital relationship and from selling or encumbering marital property. Wife also sought attorneys' fees and costs for litigation of the divorce.

By temporary order dated June 23, 1998, the court awarded Wife temporary custody of the children, \$15,000.00 monthly in temporary total support, and \$25,000.00 for attorney and expert fees. The court also awarded visitation for Husband as agreed to between the parties and required Husband to keep the minor children out of the presence or proximity of his paramour pending the divorce and to attend and complete a session of the "Consider the Children" program.

Each side filed motions to hold the other in contempt for failure to comply with the court's orders compelling discovery and for violating orders of protection. The parties agreed to have these issues addressed at the final hearing. Additionally, the parties agreed to bifurcate the issue of attorneys' fees and costs.

The final hearing began on February 16, 1999 and concluded on February 19, 1999. By final order dated March 19, 1999, the trial judge granted

Wife a divorce on the ground of adultery. Wife was also awarded one-half of the marital estate, which the court valued at \$6,720,000.00, custody of the minor children, and child support in the amount of \$3,500.00 per month. Wife did not receive an alimony award. However, Husband was ordered to execute a note and mortgage payable to Wife covering the majority of Wife's share of the marital estate, totaling \$2,451,042. The court further ordered Husband to pay the note and mortgage over a 240-month period at 6% interest. To satisfy the remainder of Wife's share of the marital estate, Husband was ordered to immediately transfer certain property in his possession to Wife.

In the final divorce decree, the court included judgment on the outstanding rules to show cause and motions for contempt. In its decree, the trial court found Wife to be in willful violation of the court's order for (1) failing to file proper financial declarations as previously ordered, (2) disclosing information to Husband's parents and adult daughter regarding Husband's prior adulterous conduct, and (3) intentionally withholding the existence of a trust which was the subject of a motion to compel. Consequently, the trial judge sentenced Wife to 30 days in jail on each of the first two violations, but suspended that sentence upon "strict compliance with the terms of this order" and that Wife refrain from further denigration of Husband or damage to his reputation, and from further use of discovery information except for purposes of enforcing the court's order. The court further required Wife to pay "attorneys' fees and costs for the prosecution of these Rules to Show Cause." For the failure to disclose the existence of a trust, the court ordered Wife to reimburse Husband "for the cost of compelling the disclosure of same."

Following Husband's motion to alter or amend, the trial court issued an order on November 3, 1999, modifying the final order. In this supplemental order, the court corrected certain mathematical errors and clarified that the interest paid on the note should be designated as lump-sum alimony for taxation purposes. The order further provided as follows:

By agreement of the parties, the court was authorized to approve the language of the Note and Mortgage to be executed by [Husband] in favor of [Wife] to secure

[Wife's] equitable apportionment of marital assets. The Final Decree and Order provided for the Note and Mortgage and instructed that the parties agree upon the appropriate language. Due to the complexity of the Note and Mortgage and upon reconsideration, the court finds it appropriate that the attorneys for [Husband] and [Wife] agree upon an independent attorney practiced and well versed in real estate and business transactions to prepare the terms of the Note and Mortgage being guided by this Court's order. Should the attorneys not agree on an individual attorney, each attorney is to submit the name of two attorneys from which the Court shall select the individual to prepare the terms of the Note and Mortgage. . . . In addition to the language in the Order and other normal language of a commercial Note and Mortgage, there should be included a due on sale clause, an acceleration clause, a refinance clause, [and] language indicating that a default in first Mortgage would result in default of second Mortgage. The acceleration, due on sale and default clauses need to be established on a pro rata basis. There shall also be provisions for the substitution of collateral to allow [Husband] to refinance the mortgaged property in a commercially reasonable manner which does not affect the interest of [Wife]. The Family Court retains jurisdiction to grant relief to either party in































































































































