

IN THE CIRCUIT COURT OF THE 12TH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

IN RE THE MARRIAGE OF:)
)
MICHAEL EDWARD HASTINGS,)
)
Petitioner,)
and) No. 2021 D 1097
)
KATHLEEN MARILYN HASTINGS,)
)
Respondent.)

PRELIMINARY NOTICE OF INTENT TO CLAIM DISSIPATION

NOW COMES Respondent, KATHLEEN MARILYN HASTINGS (“Kate”), by and through her counsel, SCHILLER DU CANTO & FLECK LLP, and pursuant to Section 5/503 of the Illinois Marriage and Dissolution of Marriage Act (“IMDMA”) (750 ILCS 5/503), hereby notifies the Petitioner, MICHAEL EDWARD HASTINGS (“Mike”), of his Intent to Claim Dissipation. In support thereof, Kate states as follows:

1. On June 21, 2021, Mike filed his Petition for Dissolution of Marriage in Will County, Illinois. Kate filed her Appearance on July 8, 2021. On November 19, 2021, Kate filed her Counter-Petition for Dissolution of Marriage and this matter has been pending ever since. On June 7, 2022, the parties entered an Order agreeing to binding mediation on all pending financial matters with William J. Arendt (“Arbitrator”).

2. The parties’ marriage began undergoing an irretrievable breakdown on November 9, 2020 when Mike physically assaulted Kate.

3. Dissipation refers to the “use of marital property for the sole benefit of one of the spouses for a purpose unrelated to the marriage at a time that the marriage is undergoing an irreconcilable breakdown.” *In re the Marriage of O’Neill*, 138 Ill.2d 487, 497 (1990). The

dissipating party need not derive a personal benefit from the dissipation of the assets for it to constitute dissipation. *In re the Marriage of Smith*, 128 Ill. App. 3d 1017, 1019 (1984). A person charged with dissipation must prove by clear and convincing evidence how the funds were spent. *Id.* at 1022. Further, excessive expenditures, even if for a permissible purpose, may constitute a dissipation of marital assets. *In re Marriage of Hagshenas*, 234 Ill.App.3d 278 (1992). In *Hagshenas*, it states that it is entirely within the realm of possibility that one spouse's use of marital funds for his or her own living expenses at a time when the marriage is undergoing an irreconcilable breakdown could be shown to be so selfish and excessive and improper as to constitute an outright waste of marital funds. *Id.* at 451.

4. During the time the parties' marriage was undergoing an irretrievable breakdown commencing in November of 2020 and continuing to the present, Mike has improperly used marital funds or incurred financial obligations for his sole benefit for purposes unrelated to the marriage. These expenditures include cash withdrawals (the purpose of which is unknown to date), payments towards his paramour, transfers to third parties for unknown purposes, transfer of funds to seemingly pay Hastings Law Office expenditures which have not been disclosed, and the like. Attached hereto as Exhibit A is a schedule of expenses relating to same.

5. Since discovery remains outstanding in this matter, including depositions of Mike and third parties, Kate reserves the right to supplement and/or amend this claim.

WHEREFORE, KATHLEEN MARILYN HASTINGS, respectfully requests that this Honorable Court grant the following relief:

A. That MICHAEL EDWARD HASTINGS, be charged with dissipation and/or waste of assets of the marriage of no less than **\$19,641.22**, or some higher amount to be determined from ongoing discovery as set forth herein, and that this Court consider said waste in

the equitable division of the marital estate pursuant to Section 503 of the Illinois Marriage and
Dissolution of Marriage Act (750 ILCS 5/503);

B. That KATHLEEN MARILYN HASTINGS be compensated in the award of
marital property for all monies dissipated or wasted by MICHAEL EDWARD HASTINGS prior
to the entry of Judgment for Dissolution of Marriage; and

C. For such other and further relief as this Honorable Court deems just and equitable

SCHILLER DU CANTO & FLECK LLP



BY: _____
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