

FULL TEXT
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JAMES M. WILLIAMS v. PRUDENCE WILLIAMS

CI-99-06533

Pennsylvania Court of Common Pleas**June 19, 2008***16.07 Property Settlement Agreements, Enforcement of Agreement***Summary**

The Lancaster County court granted wife's petition for enforcement of the parties Property Settlement Agreement (PSA). The parties had been divorced in 2002 and the agreement they entered into provided that husband pay wife \$5,500.00 per month in alimony until husband reached age 65 or lost his employment through no fault of his own. At that time, the agreement called for a reduction in alimony. In 2006, husband's company issued a press release saying that he had resigned from his position due to personal reasons. A severance package was negotiated and husband reduced his alimony payments. At trial, husband contended that he had been fired from his job and the wording of the press release was used in order not to jeopardize his future employment prospects. The Court questioned husband's credibility at hearing, reasoning that if he lied to his advantage in the press release, there was no reason not to believe that he would also lie at hearing in order to advance his case. Since husband had presented no other evidence to corroborate his contentions, the Court found that he had violated the PSA, and awarded wife arrearages and \$2,500.00 in attorney's fees.

Gorbey, J.**Opinion Sur Appeal****Procedural History**

Prudence Williams ("Wife") and James Williams ("Husband") were divorced in Lancaster County by decree dated March 15, 2002. There was no subsequent activity on the case until Wife filed a petition for enforcement of the parties' Postnuptial Agreement (PNA) on January 14, 2008. A hearing on the petition scheduled for February 27, 2008 was rescheduled to April 18, 2008. Prior to that date, Wife filed a Request for Production of Documents, to which objections were filed. An order was issued on March 6, 2008 directing Husband to provide his Employment Termination Agreement to Wife. On April 16, 2008, Husband filed a reply to the Petition for

Enforcement. On April 21, after the April 18 hearing, at which the parties agreed that the only question before the court was whether Husband had breached the parties' agreement, the Court found Husband in breach of the PNA, awarded Wife counsel fees of \$2,500 and gave Wife the option of having the alimony payments administered through the Domestic Relations Office. On April 30, 2008, Husband filed an appeal to the Superior Court. The trial court issued an Order on May 6, 2008 directing Husband to file a concise statement of errors complained of on appeal, pursuant to Rule of Appellate Procedure 1925(b), which document was filed timely.

Factual History

Prior to their divorce, the parties had negotiated a Postnuptial Agreement which provided, inter alia, that Husband would pay to Wife alimony in the amount of \$5,500 per month until he reaches 65 years of age, unless he loses employment involuntarily and through no fault of his own, such as because of illness or a non-negotiated corporate decision to fire him, causing a substantial reduction in his income. In such a case, there was to be a rebuttable presumption that the stated amount of alimony would be reduced by a percentage equal to the Husband's percentage reduction of income, though no lower than to \$3,000.00 per month. (Exhibit 1) Husband paid consistently on a monthly basis until September of 2007, when he unilaterally reduced the alimony payment to \$3,000 per month. Wife is requesting a return to the \$5,500 per month as well as attorney's fees in the amount of \$2,500 for enforcing the PNA. (N.T. 4-6, 27)

Husband had been employed as President and CEO of a Lancaster County company at the time of the parties' divorce. In October of 2002, he changed positions to become the President, CEO and a member of the Board of Directors of Monterey Gourmet Foods (Monterey). (N.T. 11) In September of 2006, a press release, written by Husband, was issued by Monterey announcing Husband's resignation "primarily for personal reasons." (N.T. 17-18) There was a severance agreement negotiated between him and the company, providing him with twelve months severance pay equal to his base salary, stock options, medical benefits, a car allowance, life insurance, laptop computer, and outplacement fees. (N.T. 20-21) The severance agreement specified that Husband's employment was ending due to mutual agreement, adding that "he is resigning as both an officer and director of Employer for personal reasons ..." (Plaintiff's Exhibit 4) When payment of the year's income was completed and he had not yet obtained a job, he reduced the alimony to \$3,000 per month. (N.T. 4)

Husband informed the Court that, contrary to the language of the press release, he had been peremptorily fired by the Board of Directors on September 1, 2006. They had already hired a replacement and were adamant about not reversing their decision. He asserted that he agreed to publicly resign and negotiated a severance package which was contained in his severance agreement with the company, in order to maintain himself in the best position possible. He drafted the press release which announced his resignation for "primarily personal reasons". (N.T. 15-17) Husband, denying to the Court that the release's substance was true, said that its characterization of his firing as a resignation was done in order to help his future employment search and so as not to have a negative effect on shareholders. (N.T. 27) He insisted that its vagueness concerning his "primarily personal reasons" was worded to preclude questions in the investor community. He denied that he had ever agreed to termination, insisting that the press release and the severance agreement were merely ways to make life easier for himself and the company in the negative face of his firing. (N.T. 17-19) Monterey did not contest his receiving unemployment compensation, which he received until he started a new position with Carlos Pasta in March of 2008. (N.T. 25) Once in the new position, he raised the alimony payment to \$3,700, but not to \$5,500 since his new income is 2/3 of what it was with Monterey. (N.T. 26)

Issue

Whether Husband's termination from an employer was involuntary when a press release written by Husband specified that he had resigned for personal reasons and when he received unemployment compensation, although Husband claimed he had been fired and drafted the press release so as to put a positive face on the matter for prospective employers and investors.

Analysis

Marital settlement agreements are governed by contract law (*Vaccarello v. Vaccarello*, 757 A.2d 909 (Pa 2000)). When construing agreements involving clear and unambiguous terms, this Court need only examine the writing itself to give effect to the parties' understanding. (*Carosone v. Carosone*, 668 A.2d 733 (Pa. Super 1997)). The parties' agreement is certainly clear as to the parties' intentions. Husband is to pay alimony at an agreed upon level based on his income at the time of the divorce. He can reduce it only if his income is reduced because he has lost his job involuntarily.

The press release also is clear on its face that Husband voluntarily left his position with Monterey. The effect of that situation under the PNA would be that alimony would remain at \$5,500. Husband denied the accuracy of the press release he himself had written, saying that he had been involuntarily terminated and the press release was merely a way to put a good face on things for his benefit vis-a-vis future employers and the company's benefit vis-a-vis investors. The Court is therefore in the position of having to decide which version of Husband's leave taking from Monterey is true, that contained in the press release or Husband's explanation of why the press release was a falsification. The Court chooses the former. Words do matter.

The Court is aware that in the corporate world what is presented to the public is not always accurate for various reasons. But that is not a general rule and sometimes publicly disseminated information may well be accurate. The Court has before it both the press release and Husband's testimony. The press release was written by Husband and then released by Monterey for public consumption. Now, when that release disadvantages him in reference to the PNA, he seeks to change its message. Frankly, there is insufficient evidence to convince the Court that Husband lied in the press release when lying was in his favor, but was truthful in his testimony when the effect of the press release's message changed and was no longer in his favor. Husband's contradictory testimony was uncorroborated by additional documentary evidence or by witnesses. Except for his own narration, he had no evidence to show the falsity of the substance of the press release. It appears to the Court that Husband is willing to present different sets of facts in different situations, depending on which one is advantageous to him. Husband has not convinced the Court that things did not happen as described in the press release, which was issued in the name of the Monterey Board of Directors. If Husband lied to turn things to his advantage then, why should he not lie now for the same reason? Wife's contention that Husband had wrongly reduced her alimony is clearly presented. Husband did not present sufficient contradictory evidence to overcome her burden of preponderance of the evidence of breach. The Court therefore finds that Husband is in breach of the PNA through having unilaterally lowered the alimony due to Wife and owes to her the amount of \$5,500 per month beginning in September of 2007 and continuing until the age of 65, unless the circumstances of his life dictate otherwise as set forth in the PNA. He is to pay her the arrearage within 30 days of this order.

Additionally, he owes her \$2,500 for attorneys fees paid for enforcing the agreement, as is set out in the PNA.

Conclusion

For the reasons set out above, the Court finds that Husband is in breach of the parties' Postnuptial Agreement and shall continue to pay Wife the sum of \$5,500 per month and \$2,500 in counsel fees. Additionally, he shall pay her any arrearage within 30 days of this opinion.