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IN THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

No. 41206-3

JOHN RUMSEY and CHERRIE RUMSEY,

Respondents,

vs.

MATTHEW HAGWOOD and BONNIE P. HAGWOOD,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

BRIEF OF RESPONDENTS

COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
BY
DEPUTY

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ORIGINAL

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Introduction

This case presents the question whether the Rumseys can enforce a loan agreement and deed of trust against Bonnie Primm, whose husband signed the loan agreement and deed of trust, where Ms. Primm knew about and benefitted from the loan and deed of trust. Although Ms. Primm did not sign the loan agreement or deed of trust, she discussed the loan with her husband before he signed the documents, and she was aware that he signed the documents shortly after he did so. The loan was used by Ms. Primm and her husband to pay off another deed of trust on their family home, to develop some properties owned by Ms. Primm and her husband, to pay family bills, and to acquire community assets. Ms. Primm and her husband have now dissolved their marriage and stopped making payments to the Rumseys. Ms. Primm was awarded the family home in the marriage dissolution, while her husband was ordered to pay back the Rumseys. The Rumseys now wish to exercise their remedies under the loan and deed of trust, to include foreclosing against the home awarded to Ms. Primm.

Issues Pertaining to Assignments of Error

1. Is Ms. Primm bound by the terms of the loan and deed of trust signed by her husband when Ms. Primm did not participate in the management of the community estate and where the loan was in the ordinary course of business?

2. Did Ms. Primm authorize and ratify the terms of the loan and deed of trust signed by Mr. Hagwood, and is she estopped from challenging the loan, where she was aware of the loan's existence and personally benefitted from the loan?

3. Did the trial court properly award the Rumseys their attorney fees and costs, and should attorney fees be awarded to the Rumseys on appeal?

Statement of the Case

John and Cherrie Rumsey were looking to invest proceeds from the recent sale of their roofing business. RP 69. As a roofer, Mr. Rumsey worked on several projects for Matthew Hagwood, who is a real estate agent and developer. RP 13-14, 55, 69; Ex. 13 (page 3, paragraph 2.8(9), (10), (11)). The Rumseys and Hagwoods were also neighbors for a time, living on Lake Tapps. RP 69. The Rumseys and Hagwoods knew each other for approximately twenty years. RP 67, 69. After selling his business, Mr. Rumsey contacted Mr. Hagwood asking if Mr. Hagwood had any ideas where he and his wife could get a better return on their money than was available investing in stocks and CDs. RP 70.

After a few months, it occurred to Mr. Hagwood that he and his wife could borrow the money, and pay the Rumseys a higher interest rate than the Rumseys would otherwise get. RP 56. Mr. Hagwood discussed this idea with his wife, Bonnie Hagwood (now known as Bonnie Primm). RP 14-15, 56, 113. Specifically, the Hagwoods

discussed borrowing \$300,000 from the Rumseys in exchange for giving the Rumseys a deed of trust on their home to secure the loan. RP 14-15, 113. At trial, Ms. Primm asserted that she was against taking out the loan. RP 113. Mr. Hagwood testified that Ms. Primm had reservations at first, but agreed to take out the loan. RP 56.

When Mr. Rumsey and Mr. Hagwood discussed the matter again, Mr. Hagwood indicated that he and Ms. Primm had a line of credit against their house. RP 71. Mr. Rumsey told Mr. Hagwood that as a condition of making the loan, the Hagwoods' line of credit would need to be paid off so the Rumseys would be in second lien position on the house. RP 16, 71. Mr. Hagwood agreed to this. RP 16.

On June 8, 2005, the Rumseys gave Mr. Hagwood a check for \$75,000. Ex. 1; RP 73. This money was used to pay off the line of credit on the Hagwoods' home. CP 30, Finding of Fact VII; RP 16, 73. On the same day, Mr. Hagwood signed a Deed of Trust against the Hagwood home and a document entitled, "Agreement to Loan and Terms of Repayment." Ex. 7, 9G; RP 25, 73-75; CP 29, Findings of Fact II and III. Once the Rumseys were assured the line of credit was paid off and they were in second lien position, they gave the Hagwoods the balance of \$225,000. RP 75; Ex. 16; CP 30, Finding of Fact VII. This \$300,000 loan to the Hagwoods represented approximately three quarters of the Rumseys' retirement funds. RP 70.

The funds that were not used to pay off the Hagwoods' line of credit were deposited into a joint account at Key Bank in the names of

Bonnie and Matthew Hagwood. CP 30, Finding of Fact VII; Ex. 16; RP 16, 58-59, 99, 124. This money was used to pay for permits and demolition work at six or seven properties owned by the Hagwoods in connection with their community business. RP 16-17; Ex. 13 (page 3, paragraph 2.8(9), (10), (11)). Ms. Primm also used the Key Bank account to pay for family expenses, including groceries. RP 115-116, 123-124. Further, the Hagwoods used these loan funds to pay for Ms. Primm's cosmetic surgery; orthodontia for Mr. Hagwood and their daughter; to pay off a van; and to purchase two boats, personal watercraft, and automobiles including a Mini Cooper and a DeLorean. RP 16-18, 40, 136-140; Ex. 12.

Over the next few years the Rumseys received regular monthly payments of \$1,750, representing interest only. RP 29, 75-76; Ex. 2. These payments were generally received through wire transfer. RP 75-76.

During their marriage, Mr. Hagwood and his business bookkeeper managed most of the Hagwoods' finances, which included collecting rents and paying mortgages. RP 58, 60, 117-119. When she did write checks, Ms. Primm did not keep records nor keep track of the balance in the account. RP 116. In July 2008, Ms. Primm filed an action to dissolve her marriage from Mr. Hagwood. Ex. 9F. When the Hagwoods separated, they agreed that Ms. Primm would collect rents and pay the mortgages. RP 62-63, 118-119. During this time, Ms.

Primm made payments on multiple debts, including the loan from Mr. and Mrs. Rumsey. RP 62, 118-119.

In January 2009, the loan payment to the Rumseys was late. RP 102. Mrs. Rumsey contacted Ms. Primm at that time to find out why no payment was made. RP 102. Ms. Primm apologized for not making the payment. *Id.* She did not question what the payment was for, and offered to pay any late charges. *Id.* Ms. Primm herself made timely payments on the loan in February, March, and April 2009. RP 103. In May 2009, the Hagwoods stopped making payments to the Rumseys. CP 3.

In June of 2009, the Rumseys notified the Hagwoods that the loan would not be renewed (it was annually renewable), and that it was in default. CP 13-14. In July of 2009, the Rumsey commenced suit against Mr. Hagwood and Ms. Primm for breach of contract and such other relief as the court deemed appropriate. CP 1-14. At trial, the Rumseys asked for a judgment against Ms. Primm declaring that she was personally obligated on the loan from the Rumseys and that the family home was subject to the deed of trust. RP 159-160; RP (8/27/10) 8. Following trial, the trial court entered judgment in favor of the Rumseys for \$300,000 plus prejudgment interest, attorney fees and costs. CP 28-36. Ms. Primm has appealed. CP 43-44.

Argument

1. **Ms. Primm's consent or joinder was not required to obligate her to the loan from the Rumseys because she did not participate in the management of the community assets, and because the loan was taken out by Mr. Hagwood in the ordinary course of business.**

Ms. Primm is obligated to the Rumseys on the \$300,000 loan because Ms. Primm chose to allow her husband to manage their assets during marriage. At trial the Rumseys relied upon subsection 6 of RCW 26.16.030 to argue Ms. Primm was bound by Mr. Hagwood's decisions regarding the management of community assets in connection with the community business. Ex. 13 (page 3, paragraph 2.8(9), (10), (11)). At trial and on appeal, Ms. Primm does not address this argument and instead relies upon subsection 3 of RCW 26.16.030 to argue that her signature on the note and deed of trust are required to find her liable and to encumber the home. But in Washington, a "joinder" is not required to bind a spouse to an obligation if the obligation is business related and incurred in the ordinary course of that business. RCW 26.16.030(6); *Reid v. Cramer*, 24 Wn. App. 742, 748 (footnote 5), 603 P.2d 851 (1979).

There was substantial evidence at trial that the Rumsey loan funds were connected with Mr. Hagwood's community business and borrowed in the ordinary course of such business, making Ms. Primm's joinder unnecessary. RCW 26.16.030(6); Ex. 13 (page 3, paragraph

2.8(9), (10), (11)). According to Ms. Primm's testimony, both the Hagwoods' personal and business finances were handled by Mr. Hagwood's accountant at his office. RP 116-117. The Rumsey loan funds were originally borrowed for the purpose of preparing for resale six or seven properties owned by the Hagwood's community business. RP 15; Ex. 13 (pages 2-3). Some of those funds were in fact used to get permits and cover demolition costs on those properties. RP 15-16. Ms. Primm was never involved in the management or operation of the family business. RP 127-128, 133. It wasn't until after Ms. Primm filed for divorce that she even asked to look at any paperwork in connection with the family business. RP 128; Ex. 9F.

Because Ms. Primm was not involved in managing the family business, and because the loan was taken out in the ordinary course of that business, Ms. Primm's joinder was not required to encumber community assets used in the business. RCW 26.16.030(6); *Reid v. Cramer*, 24 Wn. App. 742, 603 P.2d 851 (1979). Under the circumstances, the trial court's decision was correct and should be affirmed.

2. **There was substantial evidence at trial that Ms. Primm authorized, consented to, and is estopped from denying the Rumsey loan because she knew of the loan, authorized Mr. Hagwood to enter into the transaction, and she benefitted from the loan. A contrary conclusion would result in Ms. Primm being unjustly enriched by the Rumsey loan.**

Even if the Rumsey loan was not exempt from joinder under RCW 26.16.030(6), there was substantial evidence at trial that Ms.

Primm nevertheless accepted the loan through authorization, ratification or estoppel. Subsection 3 of RCW 26.16.030 did not change the law that a manager of the community is permitted to encumber real property. *Reid v. Cramer*, 24 Wn. App. 742, 603 P.2d 851 (1979). Some type of joinder was – and still is – required. *Reid*, 24 Wn. App. at 747. But that joinder need not be in writing. *Id.*

Ms. Primm argues the 1972 amendments to RCW 26.16.030 added a joint action requirement in certain circumstances. Brief of Appellant, page 6. But the *Reid* court stated:

Rather than abolishing the principles of authorization, ratification and estoppel as they apply to our community property laws, the 1972 legislation providing equality in the management of community assets extends the application of these principles to both spouses. *See Cross, Supra* at 538. As such, the community is estopped to deny liability due to the failure of one spouse to join a transaction when one spouse permits the other to conduct the transaction, both have a general knowledge of the transactions and both are ready to accept the benefits which may come from it.

Reid v. Cramer, 24 Wn. App. at 747.

The trial court decision in this case should be affirmed because there was substantial evidence in the record that Ms. Primm permitted her husband to manage community assets, she had general knowledge of the transaction at issue, and she was ready to accept its benefits. The consent of a spouse to a transaction is a factual determination to be evaluated from the circumstances of each case. *Bowman v. Hardgrove*, 200 Wn. 78, 93 P.2d 303 (1939). The reviewing court must determine whether substantial evidence exists to support the trial court's findings.

Ridgeview Properties v. Starbuck, 96 Wn.2d 716, 719, 638 P.2d 1231 (1982). “Substantial evidence is evidence in sufficient quantum to persuade a fair-minded person of the truth of the declared premise.” *Holland v. Boeing Co.*, 90 Wn.2d 384, 390-91, 583 P.2d 621 (1978). In determining whether there is substantial evidence to support the findings of fact, the court does not review evidence in the record contrary to the findings. *Structurals Northwest, Ltd. v. Fifth & Park Place, Inc.*, 33 Wn. App. 710, 658 P.2d 679 (1983). “The question is, rather, ‘whether the evidence most favorable to the prevailing party supports challenged findings.’” *Id.* at 716 (citation omitted).

A. ***Ms. Primm authorized and ratified the Rumsey loan, and is estopped from rejecting it because she permitted Mr. Hagwood to conduct the transaction, knew about the transaction, and was ready to accept its benefits.***

In the present case Ms. Primm conceded that she did not concern herself with the family finances or her husband’s business. RP 127-128. Rather, she left that to her husband and his business employees. RP 116. Ms. Primm testified that Mr. Hagwood’s accountant at the business took care of most of the family’s personal bills. *Id.* When Ms. Primm did write checks to pay bills, buy groceries, or handle other day-to-day expenses, she did not bother to keep a ledger, or even check to see what the balance in the account was. RP 115-117. She never concerned herself with the balance in the bank accounts, claimed she did not know where the family money came from, and did not know what happened with the \$300,000 that was

borrowed from the Rumseys. *Id.* Ms. Primm said she did not even know that she and her husband had a second mortgage on their home, which was paid off by the Rumsey loan. RP 117. Based upon her own testimony there was substantial evidence that Ms. Primm permitted Mr. Hagwood to manage the community assets, whether those community assets were part of his business or not. This conclusion is consistent with Mr. Hagwood's testimony that both in previous transactions, and with the Rumsey loan, Ms. Primm did not want to concern herself with signing real estate documents unless absolutely necessary. RP 57-58.

At the same time, there was substantial evidence that Ms. Primm had knowledge of the loan from the Rumseys. Both Ms. Primm and Mr. Hagwood admitted that they talked with each other about borrowing \$300,000 from the Rumseys prior to the loan being made. RP 14, 113. Ms. Primm testified she was against the loan. RP 113. Mr. Hagwood testified the loan made Ms. Primm nervous, but she trusted his judgment and he could do whatever he thought was best. CP 19. Over the next four years Mr. Hagwood would often comment to Ms. Primm that they could thank the Rumseys for making their lifestyle possible. RP 50.

At trial, Ms. Primm initially denied having knowledge of the Rumsey loan until after she filed for divorce in 2008. RP 114; Ex. 9F. However, in her marriage dissolution case, in response to the same question, Ms. Primm testified, "... I don't know exactly what month he signed off, but it probably was shortly thereafter that I became aware of

it.” RP 125, 127. This answer implied that not only was she aware of the loan as far back as 2005, but it also implied that she knew the agreement was in writing and signed by her husband. RP 125-126. Despite knowing that Mr. Hagwood signed loan paperwork in 2005, she never took the initiative to find out what that paperwork was. RP 127.

There was also substantial evidence that Ms. Primm was ready to accept the benefits from the Rumsey loan. Although Ms. Primm testified she did not know what happened with the proceeds from the Rumsey loan, the funds were deposited into a joint checking account used by Ms. Primm. Ex. 16; RP 124. Ms. Primm wrote checks freely from that account with no concern or regard for its balance. RP 116, 123. The loan funds were first used to refinance a line of credit against the Hagwood home, and then to cover the costs of permits and demolition on six or seven homes connected with the Hagwood family business. RP 16-17.

Once the loan funds were used to refinance the family home and for business purposes, the excess funds were used to enhance the Hagwoods’ lifestyle. RP 16. Among other things, the Hagwoods used the money to pay for Ms. Primm’s cosmetic surgery; to pay for orthodontia for Mr. Hagwood and the Hagwood’s daughter; to pay off a van; and to purchase boats, personal watercraft, and automobiles including a Mini Cooper and a DeLorean. RP 16-18, 40, 136-140; Ex. 12.

Finally, even if Ms. Primm's actual signature were required in the present case, this would only make the obligation voidable, not void. *Sander v. Wells*, 71 Wn.2d 25, 28-29, 426 P.2d 481 (1967). If no action is taken to avoid the obligation, it imposes on the parties the same obligation as if it were not voidable. *Id.* In the present case Ms. Primm knew about the obligation since 2005. RP 125-127. Despite knowing about the obligation, Ms. Primm took no action to rescind or avoid the loan. In fact, even after she filed for divorce from her husband in 2008, Ms. Primm continued to make payments against the obligation. RP 62-63, 103; Ex. 5. When a payment was late in January 2009, Ms. Primm failed to take any action to avoid or rescind the loan. RP 102. Instead, she offered to pay any late fees that might be owed. *Id.* The public policy in Washington, "looks with disfavor upon the effort of a spouse to accept that portion of the other spouse's business decisions which rebound to his or her benefit and repudiate those which are not profitable." *Reid v. Cramer*, 24 Wn. App. 742, 748. Under the circumstances the trial court properly concluded Ms. Primm was obligated to the Rumseys for the \$300,000 loan.

- B. *Ms. Primm would be unjustly enriched if she were allowed to avoid the Rumsey loan because the Rumsey loan satisfied a line of credit secured by the home she was awarded in her divorce, the funds were used by her for cosmetic surgery and other personal expenses, and because the Rumseys did not volunteer the funds.***

If Ms. Primm were allowed to avoid the Rumsey loan at this point in time she would be unjustly enriched at the expense of the

Rumseys. The doctrine of unjust enrichment, "... will be applied when money or property has been placed in one person's possession under circumstances that 'in equity and good conscience, [s]he ought not to retain it.'" *Heaton v. Imus*, 93 Wn.2d 249, 252, 608 P.2d 631, 632 (1980). To prove unjust enrichment it must be shown that the defendant is enriched under circumstances that are unjust, and the other party did not merely volunteer the benefit. *Trane Co. v. Randolph Plumbing & Heating*, 44 Wn. App. 438, 442, 722 P.2d 1325 (1986).

In the present case there is no dispute that Ms. Primm has been enriched because of the Rumsey loan. The first \$75,000 of the loan was used to refinance the line of credit against the family home. Ex. 1; RP 16, 73; CP 30, Finding of Fact VII. The rest of the funds were used to benefit the family business, and then were used for personal and household purposes. RP 16-18, 40, 115-116, 123-124, 136-140; Ex. 12. This included cosmetic surgery for Ms. Primm. RP 18.

This enrichment is inequitable under the circumstances if Ms. Primm is allowed to avoid the obligation. In part, this is because Ms. Primm was awarded the family home in the divorce. Ex. 12. If the Rumseys had not loaned this money to the Hagwoods, the Hagwoods would still have a line of credit against the home. Under the doctrine of equitable subrogation, the Rumseys stepped into the position of that lender. *Bank of America v. Prestance*, 160 Wn.2d 560, 160 P.3d 17 (2007). Ms. Primm is arguing she should be allowed to strip off the lien (now in favor of the Rumseys) from the family home that would still be

there if it were not for the Rumseys providing the funds to refinance that loan. Such a result would strip the Rumseys of their security for the loan, which was a precondition of the loan in the first place. RP 16, 71.

The result Ms. Primm requests is inequitable for other reasons as well. The \$300,000 loan from the Rumseys represents three quarters of their retirement savings. RP 70. If the lien is stripped off the Hagwood home and is not otherwise paid, the Rumseys stand to lose most of their retirement. In contrast, Ms. Primm was able to spend without regard or concern for the balance in her checking account because the Rumsey loan funds were in that account. RP 75, 116; Ex. 16; CP 30, Finding of Fact VII. Ms. Primm was able to enjoy the benefits of cosmetic surgery for herself and pay many expenses on behalf of her family. RP 16-18, 40, 136-140; Ex. 12. Further, Ms. Primm has been awarded the two ski boats, and Mini Cooper that were purchased with the Rumsey loan funds. *Compare* Ex. 12 and RP 17. Ms. Primm should not be allowed to retain these benefits at the expense of the Rumseys losing the majority of their retirement.

Ms. Primm does not argue that the Rumseys were volunteers, and they were not. The Rumseys did not offer these funds to the Hagwoods gratuitously. In fact, the Rumseys stated that they would not loan the funds unless they were secured by a second deed of trust on the Hagwood home. RP 16, 70-71. Therefore there is also substantial evidence in the record that the Rumseys were not mere volunteers.

The trial court decision should therefore be affirmed on the basis that Ms. Primm would be unjustly enriched if she were permitted to avoid the loan obligation and deed of trust. Ms. Primm benefitted from the Rumsey loan funds in several personal ways. To deny the Rumseys the ability to enforce the deed of trust would be inequitable and would likely cause them to lose most of their retirement savings.

3. Attorney fees and costs were properly awarded to the Rumseys at trial and should be awarded to them on appeal as well.

For the reasons stated above Ms. Primm is obligated to the Rumseys under the loan and deed of trust. Ms. Primm argues she should not pay fees under a deed of trust she did not sign. But for the reasons stated above, Ms. Primm is obligated to the Rumseys under the loan and deed of trust. Ms. Primm did not have to join in the obligation to the Rumseys as provided in RCW 26.16.030(6); her actions constituted authorization and ratification, and she is estopped from denying the obligation; and she would be unjustly enriched if she were permitted to avoid the obligation. Because the deed of trust on the Hagwood home contains an attorney fee clause, it was proper to award attorney fees to the Rumseys. CP 3, 30 (paragraph IX).

But even if the deed of trust were not enforceable, it was still proper to award attorney fees to the Rumseys as the prevailing party. Where the underlying agreement providing for an award of attorney fees to the prevailing party is held to be unenforceable, the prevailing party is still entitled to an award of reasonable costs and attorney fees.

Stryken v. Panell, 66 Wn. App. 566, 572, 832 P.2d 890 (1992); *Herzog Aluminum, Inc. v. General American Window Corp.*, 39 Wn. App. 188, 197, 692 P.2d 867 (1984). In *Herzog*, the defendant successfully defended an action for breach of contract by establishing that there was no meeting of the minds, and therefore no enforceable contract was ever created. *Herzog Aluminum, Inc. v. General American Window Corp.*, 39 Wn. App. 188, 190, 692 P.2d 867 (1984). Defendant requested attorney fees under RCW 4.84.330, but the trial court denied the defendant's request for attorney fees because the contract containing the provision was declared unenforceable. *Id.* The appellate court reversed that ruling and awarded attorney fees to the defendant as the prevailing party. *Id.* at 197. The court held that the broad language of RCW 4.84.330, which reads "[i]n any action on a contract or lease...", encompasses any action wherein a party alleges another party is liable on a contract. *Id.* Therefore, despite the fact that the contract containing the attorney fees provision was unenforceable, the defendant was still entitled to its attorney fees under the contractual provision and RCW 4.84.330. *Id.*

Further, even where the contract containing the attorney fees provision is declared null and void, rather than voidable, the prevailing party is still entitled to attorney fees pursuant to the contractual provision and RCW 4.84.330. *Stryken v. Panell*, 66 Wn. App. 566, 572, 832 P.2d 890 (1992). In that case, the plaintiff tried to distinguish its action from *Herzog* by arguing that the *Herzog* contract was voidable,

while its contract was declared void. *Id.* The appellate court rejected that distinction, and awarded attorney fees to the defendant as the prevailing party. *Id.*

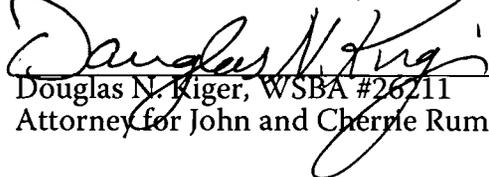
Pursuant to RAP 18.1, the Rumseys ask that they be awarded fees and cost on appeal and be permitted to submit a fee and cost bill in this matter.

Conclusion

Because the loan and deed of trust in favor of the Rumseys were taken out by Mr. Hagwood in the ordinary course of business, and because Ms. Primm did not participate in the management of the community assets or business, her joinder was not required to obligate her under the Rumsey loan and deed of trust. But even if Ms. Primm's joinder were required, she authorized and ratified the loan, and is estopped from challenging or avoiding it, because she was aware of it and benefitted from it. Any other outcome results in Ms. Primm being unjustly enriched to the Rumsey's detriment. The trial court's decision should be affirmed, and the Rumseys should be awarded attorneys fees and costs incurred by them in this appeal.

Respectfully submitted this 28 day of Decmeber, 2010.

BLADO KIGER BOLAN, P.S.


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Attorney for John and Cherrie Rumsey

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the 20th day of December, 2010, she placed with ABC Legal Messengers, Inc. an original Brief of Respondent and Certificate of Service for filing with the Court of Appeals, Division II, and true and correct copies of the same for delivery to each of the following parties and their counsel of record:

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Dated this 20th day of December, 2010, at Tacoma, Washington.

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Appendix A

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26.16.030. Community property defined--Management and control, West's RCWA 26.16.030

West's Revised Code of Washington Annotated

Title 26. Domestic Relations (Refs & Annos)

Chapter 26.16. Husband and Wife--Rights and Liabilities--Community Property (Refs & Annos)

West's RCWA 26.16.030

26.16.030. Community property defined--Management and control

Currentness

Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage or after registration of a state registered domestic partnership by either domestic partner or either husband or wife or both, is community property. Either spouse or either domestic partner, acting alone, may manage and control community property, with a like power of disposition as the acting spouse or domestic partner has over his or her separate property, except:

- (1) Neither person shall devise or bequeath by will more than one-half of the community property.
- (2) Neither person shall give community property without the express or implied consent of the other.
- (3) Neither person shall sell, convey, or encumber the community real property without the other spouse or other domestic partner joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses or both domestic partners.
- (4) Neither person shall purchase or contract to purchase community real property without the other spouse or other domestic partner joining in the transaction of purchase or in the execution of the contract to purchase.
- (5) Neither person shall create a security interest other than a purchase money security interest as defined in *RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a community mobile home unless the other spouse or other domestic partner joins in executing the security agreement or bill of sale, if any.
- (6) Neither person shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses or both domestic partners participate in its management without the consent of the other: PROVIDED, That where only one spouse or one domestic partner participates in such management the participating spouse or participating domestic partner may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse or nonparticipating domestic partner.

Credits

[2008 c 6 § 604, eff. June 12, 2008; 1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

Notes of Decisions (413)