

1 DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO

2 Case No. A89DR477 Division R-1

3 TRANSCRIPT OF TAPE-RECORDED PROCEEDINGS
4

5 -----X
6 In Re the Marriage of:)

7 SANDRA WILFRED,)

8 Petitioner,)

9 HARMON WILFRED,)

10 Respondent.)
11 -----X

12 This matter came on for Evidentiary Hearing
13 on June 15, 1989, before VIRGINIA WARE, DISTRICT COURT
14 REFEREE.

15 This is a transcript of the proceedings recorded
16 to this case on that date.
17

18 FOR THE PETITIONER:

19 ELAINE EDINBURG
20 675 Grant St.
21 Denver, Colorado 80203

22 FOR THE RESPONDENT:

23 ROBERT HINDS
24 1709 W. Littleton Blvd.
25 Littleton, Colorado 80120

GUARDIAN AD LITEM

SUSAN DYERS

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>Petitioner</u>				
Sandra Wilfred	5	--	--	--

E X H I B I T S

<u>NUMBER</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
<u>Petitioner</u>		
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1 court time available with my schedule the next couple of
2 weeks. Let me just be clear. We're going to go forward
3 today in an evidentiary hearing regarding the continued
4 request for --

5 REFEREE WARE: And I set you firm for the --
6 for the -- what was it? What date did I --

7 MR. HINDS: July 14th.

8 REFEREE WARE: July 14th.

9 MS. EDINBURG: And to finances. Is that
10 right? I can go forward on the financial. I need to do
11 that.

12 REFEREE WARE: On the financial issues?
13 Right. We can just go forward on the evidentiary hearing.

14 MS. EDINBURG: Okay.

15 MR. HINDS: Your Honor, why don't we just
16 proceed as a matter in its completed form. I would ask the
17 courtesy of those people who are professional people here
18 that after she finishes with her client or if there -- I
19 would reserve my cross-examination, perhaps would be the way
20 to do it, until I can put some of my professional people on.

21 REFEREE WARE: Do you have any objection to
22 that, Ms. Edinburg?

23 (No audible response.)

24 REFEREE WARE: All right.

25 (Pause.)

1 REFEREE WARE: All right. According to my
2 notes, Ms. Edinburg, your direct of the petitioner was not
3 yet finished. Is that correct?

4 MS. EDINBURG: That's correct.

5 REFEREE WARE: All right.

6 MS. EDINBURG: Your Honor, at this time, just
7 to let everyone know what I'm going to do, given the fact
8 that we have another date of July 14th and the supervision is
9 in effect until that time, I will only deal with the
10 financial issues at this time and on July 14th continue with
11 the supervised issues.

12 REFEREE WARE: All right. That's fine. Do
13 you have any -- that should save some time today.

14 MR. HINDS: That's fine.

15 MS. EDINBURG: Your Honor, I would recall the
16 Petitioner, Sandra Wilfred to the stand. I have several
17 exhibits that I would like to have marked.

18 (The witness was duly sworn by the Judge.)

19 SANDRA WILFRED,

20 recalled as a witness by the Petitioner herein, having been
21 duly sworn, further testified as follows:

22 REFEREE WARE: Petitioner's Exhibit 1 through
23 7 have been marked.

24 (The documents referred to
25 were marked for identification

1 as Petitioner Exhibits 1
2 through 7.)

3 MS. EDINBURG: Thank you.

4 DIRECT EXAMINATION

5 BY MS. EDINBURG:

6 Q Ms. Wilfred, would you please restate your
7 full name?

8 A Yes. Sandra Ann Wilfred, W-i-l-f-r-e-d.

9 Q How long were you married to Mr. Wilfred?

10 A Seven years.

11 Q And, did you work and hold full time
12 employment outside of the family owned businesses during
13 marriage?

14 A I did at times. Most of the time they were
15 part time jobs. It was very difficult, since Harmon owned
16 his own business and generally worked ten to twelve hours a
17 day, for me to also have a career. So generally, we had an
18 agreement that I would work part time and maintain the house
19 and take care of the yard and run all the errands and,
20 basically, take care of everything related to the house in
21 addition to working part time.

22 Q Now, after the adoption of Tyler was
23 finalized, was there discussion regarding whether you would
24 work or be home with the baby?

25 A After it was finalized? Right before it was

1 final, which would have been May of 1988, Harmon literally
2 begged me to come back to work part time. I worked anywhere
3 from two to three days a week at the company part time for no
4 income. I more or less volunteered my time. In September of
5 1988, because the last property manager was fired abruptly, I
6 was made property manager and started working full time then.

7 Q When was that?

8 A That would have been September of 1988.

9 Q Now you said property manager.

10 A Yes.

11 Q What properties did you manage?

12 A Promenade, the shopping center on County Line
13 and University, Regatta Landing, and about -- just a few
14 weeks before I left I took on management of the Seismograph
15 Building.

16 Q Is that also known as the Falcon Limited --

17 A Falcon Limited Number One Partnership. Yes.

18 Q Are you familiar with the finances then,
19 when you were property manager, of those various investments?

20 A Somewhat. Harmon -- about Fall of last, this
21 would have been Fall of 1988, Harmon instructed me that I was
22 to have nothing more to do with the accounting department,
23 that he was in charge of that. He didn't want me to see
24 records. He was directly supervising that position for which
25 Bill Davis was hired for. So I did see some of the records,

1 but they weren't readily available to me.

2 Q Now when we filed the domestic action, did we
3 also serve Mr. Wilfred with interrogatories and request for
4 production files?

5 A Yes, we did.

6 Q And to the best of your knowledge, did we
7 receive answers from any of this four sets of lawyers to
8 those requests?

9 A As far as I know, never.

10 Q Did we have to subpoena documents from the
11 bank in order to be prepared for Tuesday's hearing?

12 A Yes, we did.

13 Q I hand you now what has been marked
14 Petitioner's Exhibit 1 and ask you, can you identify this
15 document?

16 A Yes. These are bank statements from November
17 of 1988 through May of 1989, an account that was at one time
18 a joint account at First Bank with Harmon and me.

19 REFEREE WARE: What were those dates again,
20 Ms. Wilfred?

21 THE WITNESS: This would have been November
22 of 1988 through May 24th, 1989.

23 BY MS. EDINBURG:

24 Q And, what is significant about that account?

25 A Couple things.

1 MR. HINDS: I'm going to object at this time.
2 I think, first of all, this has to be offered and I have the
3 right to voir dire, and then she can respond to what might be
4 submitted.

5 REFEREE WARE: Well, she's identified them.
6 Are you offering this as an exhibit?

7 MS. EDINBURG: Well, I can. I can offer it
8 now or when she concludes her testimony.

9 REFEREE WARE: Well, why don't you offer it
10 now and give Mr. Hinds a chance to voir dire on the exhibit.

11 BY MS. EDINBURG:

12 Q Are these, in fact, the copies of the joint
13 checking account?

14 A Yes, they are.

15 Q And were these in both of your names? This
16 account in both your names?

17 A When Harmon opened this account, which would
18 have been November 16th, he put both of our names on the
19 account, but he only ordered checks in his name so he would
20 have total control of the money at that time.

21 Q Excuse me. Are these the records that we
22 received from the bank?

23 A Yes, they are.

24 Q Have you reviewed them carefully?

25 A Yes, I have.

1 Q And, are there notes in your own handwriting
2 on the various pages of the exhibit?

3 A Yes, there are.

4 MS. EDINBURG: I would offer Petitioner's 1
5 into evidence.

6 REFEREE WARE: One through seven?

7 MS. EDINBURG: No, just 1.

8 REFEREE WARE: Okay. Exhibit Number 1. All
9 right.

10 MR. HINDS: We have no objection to Exhibit
11 1.

12 (The document referred to,
13 having been previously marked
14 for identification as
15 Petitioner Exhibit 1, was
16 received into evidence.)

17 REFEREE WARE: Okay. Now you may ask your
18 questions.

19 MS. EDINBURG: Thank you.

20 BY MS. EDINBURG:

21 Q Reviewing the numerous pages of Exhibit 1,
22 could you tell the court what was deposited in the joint
23 checking account in the month of December? Total deposits.

24 A The account from November 25th through
25 December 28th -- it looks like there were \$14,000 in

1 deposits, \$14,024.91 to be exact. There was a \$2,000 check
2 written. I don't know to whom. Seemed like a rather large
3 amount. Want me to continue with the months?

4 Q Let me just ask you. Was it normal behavior
5 and a pattern in the marriage that Mr. Wilfred's paychecks or
6 checks from the various sources of income, Regatta,
7 Promenade, the Seismograph Building, would all go into that
8 account?

9 A Generally, but the reason he did this, he
10 took the money -- he closed all of our accounts at First
11 Colorado and he was controlling the money. He said he was
12 the man of the house and unless I gave him his husbandly
13 privilege of sex in the marriage, he was taking away my
14 financial privilege. I was not allowed to know how much he
15 made or what bills were paid during that time. And -- I'm
16 sorry. What was your question?

17 Q Would all of his "checks" or income from
18 various sources be deposited in that account?

19 A Yes. When I was paying bills and I was
20 handling the account his paychecks went into the joint
21 account, yes.

22 Q So what other sources of income does he have
23 aside from the three or four that we know are listed on his
24 financial affidavit?

25 A Harmon has -- Harmon is a broker. He's a

1 real estate broker and he gets commissions upon signing
2 leases. He signed a lease on the office space that we
3 occupied at times. He got quite a sizable commission for
4 that. So he has access to commissions upon signing leases
5 all the time.

6 Q What was the amount of deposits in the month
7 of January?

8 A December 27th through January 28th,
9 \$39,603.18 were deposited.

10 Q And, are you --

11 REFEREE WARE: What were those dates? I'm
12 sorry.

13 THE WITNESS: 12-27 of '88 through 1-28 of
14 '89. I'm sorry, 1-23, '89.

15 REFEREE WARE: And, what was the figure?

16 THE WITNESS: Thirty-nine thousand, six-oh-
17 three eighteen.

18 REFEREE WARE: Thank you.

19 BY MS. EDINBURG:

20 Q Now, do you have a deposit slip to show where
21 \$17,000 that month came from?

22 A I have a deposit slip. It's dated January
23 3rd and it shows -- it looks like PM675350, \$17,064. I don't
24 know what account that came from. PM could be property
25 management. I don't know where that money came from. It

1 could have been a lease.

2 Q And, that was placed in the joint account?

3 A Yes, it was.

4 Q Now what amount of money in that month was
5 paid by Mr. Wilfred to the church? The (inaudible) of Life
6 Church.

7 A Well, during that month, at least on this
8 bank statement, some of the checks were written December,
9 some were written in January. I totaled them up at one time
10 and they total almost \$4,000. There was one in particular
11 for \$2,000 and there were several -- here's on dated January
12 1st for fifty, January 8th for a hundred, 12-25 for three
13 hundred, 12-31 for a hundred. So it seems like every time he
14 attended church the amount was about \$100.

15 Q And was that your understanding of what he
16 was doing at that time? Every time he went to church he
17 would --

18 A No, it was a complete shock to me because I
19 had no idea how much he was giving the church. Again, these
20 numbers were off limits to me. The bank statement came in
21 both of our names and I opened it accidentally and I was
22 totally shocked at the amounts.

23 Q So he was -- at least we know in the month of
24 January he had donated in excess of \$4,000 to the church.

25 A That's correct. Well, around four thousand.

1 Q And when you I met in my office in March and
2 we put together an initial request to Mr. Wilfred pursuant to
3 his March 9th letter to the court, what amount of money did
4 we request?

5 A We requested \$4,000.

6 Q Why?

7 A We assumed that if he can contribute that
8 much to a church each month, he could contribute that much
9 to his wife and child.

10 Q Now, would you please tell the court what the
11 bank records reveal the end of February, the day before you
12 moved out of the family residence?

13 A There -- on 2-27, which was the day before I
14 moved and the day that Harmon told me he was leaving, there
15 were two checks cashed; one was check number 1145 dated 2-27
16 written to cash for \$3,964.76 and the other was check number
17 1144 dated 2-27 written to cash for \$5,000.

18 Q Now, have you been able and have I been able
19 to trace what happened to almost \$9,000 in cash?

20 A No.

21 Q Is there another withdrawal in the amount of
22 -- that went into another account that we have been able to
23 trace?

24 A Yes, there is. There was a check written in
25 the amount of \$22,000 to First Bank and I believe the account

1 is in another exhibit, but that went into a personal savings
2 account in Harmon's name only. That was a money market
3 account.

4 Q I hand you what has been marked as
5 Petitioner's Exhibit 7 and ask you if that's the account
6 where the \$22,000 is placed.

7 A I'm missing the page that shows the deposit
8 but yes, it was. It was a money market account number
9 6525601.

10 Q I have -- is that -- I have a page -- I think
11 there's a problem with the photocopy. I have the January 9th
12 page.

13 A Yeah. This is it, hum-um. Sorry.

14 Q The exhibit --

15 REFEREE WARE: Does that -- does that need to
16 be attached to that exhibit?

17 MS. EDINBURG: Yes.

18 REFEREE WARE: Which exhibit are we talking
19 about?

20 MS. EDINBURG: Number 7. Do you want me to
21 change the sequence, Your Honor? Just put it on its back.

22 THE WITNESS: And this account was opened --
23 looks like January 9th, \$22,000.

24 BY MS. EDINBURG:

25 Q From the joint checking account?

1 A Yes.

2 Q Did you know anything about this other
3 account?

4 A No. Again, all that was kept from me. I
5 wasn't allowed to know. In fact, Harmon had these statements
6 sent in care of Westmarck Investments at the office. And
7 later on he changed our personal checking. Number one, he
8 took my name off of it and then had the address changed so
9 everything came to his office so I couldn't see anything.

10 Q Is there anything else significant in terms
11 of deposits and withdrawals in the first exhibit, the joint
12 checking account?

13 (Pause to review documents.)

14 A Other than the day that I moved out I called
15 to get a balance, and a balance which had been normally
16 running quite a bit higher was \$400.

17 MS. EDINBURG: Your Honor, at this time I
18 would tender to the court Exhibit 1 that I believe has been
19 stipulated to and also Exhibit Number 7.

20 REFEREE WARE: Voir dire?

21 THE WITNESS: I have some loose pages here.
22 I don't know if they came off the first exhibit.

23 REFEREE WARE: Maybe my staple didn't work
24 very well.

25 THE WITNESS: Yeah, I don't know, 5389.

1 MR. HINDS: Other than the fact that we would
2 reserve, with the cooperation of Ms. Edinburg, to replace it
3 with a readable copy at an appropriate time, we have no
4 objection.

5 REFEREE WARE: Okay.

6 MS. EDINBURG: Number 7 then is admitted and,
7 unfortunately, the staple did come off of the first one.

8 REFEREE WARE: All right. Exhibit Number 7
9 is admitted. Which one did the staple come off of? This
10 one?

11 (The document referred to,
12 having been previously marked
13 for identification as
14 Petitioner Exhibit 7, was
15 received into evidence.)

16 MS. EDINBURG: The first one, right. Mr.
17 Wilfred has all the originals. If he'd only complied with
18 discovery, we would have had them. And, Mr. Hinds can get
19 better copies from his own client.

20 REFEREE WARE: It's either stuck together now
21 or dead, one or the other.

22 MS. DYERS: Your Honor, just for the record,
23 even though I was not given an opportunity to look at these,
24 I don't object to the admission.

25 REFEREE WARE: All right.

1 BY MS. EDINBURG:

2 Q Ms. Wilfred, what are you requesting that the
3 court do on an interim basis on the temporary orders
4 regarding joint accounts and the money that was in them?

5 A I don't know how many accounts are out there.
6 We had to subpoena 29 different accounts. I don't know how
7 many more are out there, other banks that we don't even know
8 about. What I'm asking for -- the car that I'm currently
9 driving is a leased automobile. The lease was up in May.
10 It's an '84 Mercedes. I believe the payments are around five
11 hundred and something dollars a month. Harmon demanded that
12 car back a few weeks ago which would leave me without a car
13 and without a job to purchase a car. What I'm asking for is
14 half the money that was in the joint checking account or in
15 the savings account, the \$12,000, on the day that I moved out
16 so that I may purchase a car. I think if he was going to
17 take money, he should have only taken half of it.

18 Q I now hand you what has been marked as
19 Petitioner's 2, 3, and 4 and ask you if you can identify
20 these exhibits.

21 A Yes, these are bank statements from First
22 Bank. One is Promenade Limited, Debtor in Possession, which
23 I'm assuming is the bankruptcy account. The other is Regatta
24 Landing Limited, Debtor in Possession, which I'm assuming is
25 the bankruptcy account on that shopping center. And, the

1 third is Westmarck Investments which is the business account
2 for the company that we own.

3 Q And, the first exhibit, Exhibit Number 2, the
4 Promenade Account --

5 A Hum-um.

6 Q -- who is the signer on that account?

7 A Right now Harmon Wilfred and Tom Jones.

8 Q And so, the fact that there's a bankruptcy
9 filing or debtor in possession, he still has access to
10 withdraw and make transactions from that account.

11 A According to the bank, yes.

12 Q And, are there deposits into that account?

13 A The balance as of the last statement which
14 was dated -- it looks like 5-31, '89 -- is \$199,305.98.

15 Q Can you tell whether the mortgage payments
16 have been made on that building?

17 A It doesn't appear that it has. In fact, I
18 believe that's the reason they're foreclosing, is that
19 mortgage payments haven't been made since January.

20 Q Do you know what the amount of the rents are
21 on a monthly basis that Mr. Wilfred collects?

22 A When I was there I believe they were around
23 \$80,000 a month on that particular project.

24 Q Eighty?

25 A Yes.

1 Q And, would that be consistent with the bank
2 records to show what's coming in on a monthly basis if the
3 mortgage payments are not being paid?

4 A Yeah, pretty close it would.

5 MS. EDINBURG: Your Honor, at this time I
6 would offer Exhibit 2 into evidence.

7 MR. HINDS: Your Honor, we're going to
8 stipulate to the Exhibits Number 2, Number 3, and Number 4.
9 However, I am going to, in advance, so that we don't go
10 through a lot of traffic, and indicate, other than the
11 amounts in the accounts which the court can read for
12 themselves, that I would be objecting to her speculating as
13 to what restrictions and what requirements are under the
14 Chapter 11. We will have an expert come in that will define
15 specifically what debtor in possession -- how these moneys
16 can or cannot be spent. And, I think it would serve no
17 purpose for her to just speculate as to what he may or may
18 not do with the money until we hear from the bankruptcy
19 lawyer himself.

20 REFEREE WARE: All right. Exhibits -- excuse
21 me. Ms. Dyers (phonetic)?

22 MS. DYERS: No objection, Your Honor.

23 REFEREE WARE: All right. Exhibits 2, 3, and
24 4 will be admitted.

25 (The documents referred to,

1 having been previously marked
2 for identification as
3 Petitioner Exhibit 2 through
4 4, were received into
5 evidence.)

6 BY MS. EDINBURG:

7 Q In addition to 2, 3, and 4, you've also
8 testified about a building on this Falcon Limited Number One.
9 And, I will hand you now what's identified as Petitioner's
10 Exhibit 6. Can you identify those bank records?

11 A Yes. These are bank statements from -- looks
12 like November 2nd, 1988 through May 31st, 1981.

13 Q And is that also --

14 MR. HINDS: I'm sorry. Nineteen what?

15 THE WITNESS: Looks like May 31st, 1989.

16 MR. HINDS: Thank you.

17 BY MS. EDINBURG:

18 Q Were those also pursuant to our subpoena to
19 the bank?

20 A Yes, they were.

21 Q And is the Falcon Limited Partnership also
22 what's known as the Seismograph Building?

23 A Yes, it is.

24 Q Now, Mr. Wilfred's financial affidavit does
25 not include \$1,500 a month income from the Seismograph

1 Building. Were you the property manager of that building
2 when you worked for the company in September and October?

3 A September and October? No, I didn't take
4 that one on until probably later in the year. I'm guessing
5 December; however, there are withdrawals of \$1,500 on several
6 of these statements showing that Harmon has been receiving
7 the income, the \$1,500 cash flow.

8 Q What is your request to the court regarding
9 the Seismograph income, the \$1,500 a month?

10 A Well, I would request that my \$1,500 a month
11 be assigned directly from the cash flow in this building to
12 assure that I would receive it directly from this property.

13 Q Are you concerned that although the court's
14 entering temporary orders, that you receive whatever amount
15 of money, \$1,500 or whatever the court may modify today, that
16 instead of Mr. Wilfred paying you, that you get it directly
17 from the cash flow --

18 A Yes, I would prefer that.

19 Q Why?

20 A Again, Harmon has been all over the place. I
21 don't know even if he agrees to an amount for child support
22 and maintenance whether I'd actually get the check or not.
23 He could change his mind tomorrow and this way it would
24 assure me getting it. This property was acquired during the
25 marriage, and I would assume that I should get at least half

1 of it anyway as normal cash flow.

2 Q Are you willing to take over management of
3 that property?

4 A I would be willing to, yes.

5 MS. EDINBURG: I offer what has been marked
6 as Petitioner's Exhibit 6.

7 REFEREE WARE: Voir dire?

8 MR. HINDS: No objection.

9 REFEREE WARE: Ms. Dyers?

10 MS. DYERS: No objection.

11 (The document referred to,
12 having been previously marked
13 for identification as
14 Petitioner Exhibit 6, was
15 received into evidence.)

16 BY MS. EDINBURG:

17 Q In addition to the \$1,500 a month which -- am
18 I correct to assume that that would be your maintenance fee?
19 That would be in lieu of maintenance fee if you receive that
20 directly?

21 A Yes.

22 Q Are you also requesting that the court order
23 child support?

24 A Yes.

25 Q What is the total amount of income that you

1 believe Mr. Wilfred has from all sources that we can identify
2 at this point in time?

3 A Just that we can identify I would say it's
4 closer to \$10,000. Again, commissions can vary. It's so
5 hard to determine because one month, like you saw, \$38,000,
6 and the next month could be much less.

7 REFEREE WARE: So you're thinking \$10,000 a
8 month is --

9 THE WITNESS: Ten thousand is probably the
10 minimum, absolute minimum.

11 MR. HINDS: I'm sorry. I apologize. There's
12 some shuffling here. It's probably my fault. Could you
13 repeat your answer, please?

14 THE WITNESS: I would say the absolute
15 minimum, based on the cash flow and what you've provided, is
16 ten thousand a month. And then, commissions over and above
17 that.

18 BY MS. EDINBURG:

19 Q Now, I hand you what has been marked as
20 Petitioner's Exhibit 5 and ask if you can identify this one.

21 A Again, a lot of this was kept from me. When
22 Harmon closed a loan last May, this would have been May of
23 1988, which enabled him to take ownership of his company
24 again, he received a sizable amount of cash. I'm thinking it
25 was around \$150,000. And, a lot of that had to go out to pay

1 expenses that he had run up. We were about \$60,000 in debt
2 at the time, personally. Part of that money he took to First
3 Colorado Bank and Trust and opened a certificate of deposit
4 for \$25,000 which was collateral on a loan. And again, for
5 convenience, he had opened it in his name only, is what he
6 told me. I was very surprised to find out that the
7 certificate had been closed out 12-19 of '88. It looks like
8 to pay off a loan, but I'm assuming that loan was the same
9 one that Harmon is still showing as in effect on his
10 financial statement.

11 Q So let me just ask you this. The Exhibit 6
12 documents that we received pursuant to the subpoena that
13 identifies that the CD was cashed in and the loan was paid
14 off.

15 REFEREE WARE: Is this Exhibit 6 or Exhibit
16 5?

17 MS. EDINBURG: This is 5. Oh, I'm sorry.
18 It's 5.

19 REFEREE WARE: Don't confuse the court, Ms.
20 Edinburg, I'm confused enough as it is.

21 MR. HINDS: No objection.

22 REFEREE WARE: Ms. Dyers?

23 MR. HINDS: May I inquire of Counsel whether
24 or not I will have the professional courtesy of calling any
25 of my professional witnesses?

1 MS. EDINBURG: I'm almost done.

2 REFEREE WARE: She indicates she's almost
3 done.

4 MR. HINDS: Thank you.

5 MS. DYERS: No objection, Your Honor.

6 REFEREE WARE: All right. Petitioner's
7 Exhibit 5 will be admitted.

8 (The document referred to,
9 having been previously marked
10 for identification as
11 Petitioner Exhibit 5, was
12 received into evidence.)

13 BY MS. EDINBURG:

14 Q Ms. Wilfred, with respect to Petitioner's
15 Exhibit 5 and the paying off of the loan, when you then
16 reviewed Mr. Wilfred's financial affidavit and saw this First
17 Colorado Bank and Trust unpaid loan for \$24,000, is that
18 consistent or inconsistent with the information in Exhibit 5?

19 A It seems to be inconsistent to me; however, I
20 don't know how many loans he may have taken out. This may
21 have been a more recent one since I left. I don't know.

22 Q To the best of your knowledge is there any
23 second mortgage on the family residence?

24 A Not that I know of.

25 Q Well, Mr. Wilfred's showing an \$850 second

1 mortgage. Did you agree to encumber the property with a
2 second mortgage?

3 A I don't remember signing anything. I'm
4 sorry.

5 Q Is that property in both your names?

6 A Yes, it is.

7 Q And would that second mortgage have been
8 placed on the property subsequent to the date you filed for
9 divorce?

10 A I would assume that it had unless I had
11 forgotten that -- so many things were happening at various
12 times that he could have snuck -- said sign this and I didn't
13 realize what I was signing at the time. But as far as I
14 know there was no second mortgage because there's no equity.
15 The house is worth about a hundred and forty-four thousand.
16 How could there be a second mortgage with a \$850 a month
17 payment?

18 Q What's the balance of the first loan?

19 A It's about a hundred and forty-three. So it
20 doesn't make sense. I mean, what lender out there would loan
21 that large an amount on a house that has little or not
22 equity? Again, if Harmon would have revealed these things to
23 me, I would have understood possibly. But everything was
24 kept so secret that I don't know what he's done or what he
25 hasn't done.

1 Q Let me ask you this. The place where you're
2 now living was yours before the marriage.

3 A Yes.

4 Q And, has Mr. Wilfred paid the first mortgage
5 payment for May and June?

6 A No, he has not. He did the first two months
7 I believe. He paid March and April. And then we received a
8 letter from him stating that he wasn't going to pay anything
9 more that had my name on it, even though it was ordered by
10 court. And --

11 Q Okay. On the financial affidavit, paragraph
12 14(a), we show an outstanding mortgage to Bank Western for
13 the townhouse.

14 A Yes.

15 Q Past due of \$824.

16 A That's correct.

17 Q What happened with respect to attempts of
18 collecting that?

19 A When I found out he hadn't made the payment
20 for May I phoned them, and apparently it didn't get to the
21 proper people because this morning I had a collector knocking
22 on my door wanting the \$824.

23 Q So May and June are now delinquent?

24 A Yes.

25 Q Do you have \$824 to pay that past due

1 mortgage?

2 A I had the \$750 check Harmon gave me on Sunday
3 which I haven't deposited yet, but that's -- I would have to
4 borrow money from my father to pay it.

5 Q That's the only money that you have, is the
6 \$750?

7 A I have maybe \$200 in cash and that's it.

8 Q And that's it.

9 A Hum-um.

10 Q And you've not received any money from Mr.
11 Wilfred since you left February 27th.

12 A Two days before our hearing on Tuesday he
13 gave me a check, and that was the very first attempt. His
14 reasoning was he didn't know where I was, even though he told
15 Susan Dyers at the time that he should be trusted to pick
16 Tyler up because he knew exactly where I was and gave her the
17 proper address. He had seen me probably six times. When we
18 exchanged Tyler he had every opportunity to offer cash or
19 offer support or even ask does Tyler need anything.

20 Q Did he send information to you, mail, bills,
21 and everything else, through my office?

22 A He sent every bill that came that had my name
23 on it. In fact, if something came with my name and his, one
24 credit card in particular, he crossed his name off of it and
25 said from now on you're responsible. And as far as -- no, no

1 payments have been made on that credit card. The balance is
2 about \$2,500.

3 Q Now he shows on his financial affidavit that
4 he's paying the second mortgage of \$105. Has he paid that
5 for the month of June?

6 A When I phoned the bank last Friday, the June
7 payment had not been paid but the May payment had.

8 Q And are you requesting that the June payment
9 be made?

10 A Yes.

11 Q Do you have moneys to pay that mortgage?

12 A Well, I guess I could take that one out of
13 the \$750, but it certainly would stretch things.

14 REFEREE WARE: Are we talking about the
15 second mortgage?

16 MS. EDINBURG: Yes.

17 THE WITNESS: Yes.

18 MS. EDINBURG: On her property which we show
19 on our financial affidavit on paragraph 14(a).

20 THE WITNESS: And I believe Harmon's showing
21 it also because it's also in his name.

22 MS. EDINBURG: One final area of questioning.
23 Ms. Wilfred, I hand you -- Your Honor, does the court want an
24 attorney fee affidavit?

25 REFEREE WARE: No, we don't. Leave it marked

1 (inaudible)

2 MS. EDINBURG: Okay.

3 REFEREE WARE: Has Mr. Hinds and Ms. Dyers
4 been provided with copies?

5 (No audible response.)

6 BY MS. EDINBURG:

7 Q Now that the court and Counsel have now been
8 provided with copies of the attorney fee affidavit, have you
9 had the opportunity to review that affidavit?

10 A Yes, I have.

11 Q And, are the charges and time involved in
12 properly representing you in this case adequate -- I'm sorry
13 -- accurate through only the end of May?

14 A Yes.

15 Q It does not include the June billing, does
16 it?

17 A No.

18 Q And, what is the total amount of fees that
19 have been incurred for you?

20 A Three thousand one hundred I believe. I
21 don't have it in front of me. I'm not sure of the exact
22 number.

23 Q And has it been necessary, given all of the
24 attorneys that Mr. Wilfred's had, to work with the attorneys
25 and properly prepare this case?

1 witness at this time.

2 REFERENCE WARE: My understanding, Mr. Hinds,
3 that you wanted to defer cross on Ms. Wilfred and call your
4 provisional witness. Is that correct?

5 MR. HINDS: Yes, I think that's a good idea.

6 REFERENCE WARE: All right. Thank you, Ms.
7 Wilfred, you may step down.

8 (Whereupon, the witness was excused, and
9 Respondent witness Mark Bagwell testified on direct
10 and cross-examination.)

11 REFERENCE WARE: Counsel, before my clerk gets
12 away, we have set the matter for the July hearing date. We
13 have approved the stipulation for the interim period with
14 regard to the supervision and the increased amount of child
15 support. Is that correct?

16 MS. EDINBURG: Well --

17 MR. HINDS: I don't know if -- you know, I
18 may --

19 MS. EDINBURG: I'm not sure there's a
20 stipulation. I heard my client request from the court and
21 I've submitted documents that, number one, her mortgage
22 payment is two months in arrears and he was supposed to make
23 that and he hasn't. And, we need some help with that, Your
24 Honor. I don't want her property to go into foreclosure when
25 we have thousands and thousands of dollars sitting in bank

1 accounts. We're also needing some money for a car and that's
2 not resolved. That is not a resolved issue. We can
3 stipulate that she can receive this \$1,500 a month payment,
4 plus child support, but that seems minute compared to the
5 amount of money and sums of money that this court --

6 REFeree WARE: Well, as I say, Counsel, you
7 know that's certainly more than the interim orders that the
8 court entered two days ago, and we're not in a posture to
9 enter -- I haven't even heard from the other side. We're not
10 in a posture to enter complete temporary orders certainly at
11 this point.

12 MS. EDINBURG: I respect that. Is there any
13 way the court can consider ordering that the arrears on her
14 mortgage payments be made up by Mr. Wilfred? And if my
15 client has to make them up, she'll have no money to support
16 herself and the child for the next four weeks.

17 MR. HINDS: You know, this is a process that
18 sometimes we all have to step back and take a breath of fresh
19 air. First, we did say that we were going to make two
20 payments. This is the second \$750 payment. I tendered that
21 to Counsel. Seems like with this situation, I suggest to Ms.
22 Edinburg, will take -- and increase even what the interim
23 order was knowing that the court couldn't complete the case
24 and suggest \$250 more -- and that just seems to give rise to
25 further requests. We're going to be back here in a month. I

1 think the court will hear --

2 REFERENCE WARE: Well, you may be back here
3 before that. That's what I'm looking for right now, Counsel,
4 because it would seem that before we're back here in a month,
5 the idea that we're going to address the issue at that point
6 in time, supervised visitation or the visitation issues, I'm
7 not -- I'm going to try to get -- find sometime here before
8 the month to get you in here and hear some more testimony
9 with regards to his financial issues because it seems to me
10 quite clear that we have some -- some transportation
11 problems, we have some mortgage foreclosure problems, and
12 that sort of thing that are going to be rapidly upon us.

13 MS. DYERS: Ms. Edinburg, when is the date
14 that the lease is up?

15 MS. WILFRED: It was up last May. It was up
16 in May, now delinquent, and I have a feeling that I'm going
17 to come out one day and my car is going to be gone.

18 REFERENCE WARE: That's probably a very good
19 guess.

20 MS. DYERS: Would it be possible to make a
21 single payment to satisfy them or is this the kind of thing
22 that you have to buy it out at this point?

23 MS. WILFRED: I don't know. Harmon's been in
24 contact with them.

25 MR. WILFRED: If I might answer that, Your

1 Honor. You do have to either buy it out or turn the car in
2 and it is due in on Monday, and I just made that last payment
3 today. So the car is due back on Monday.

4 REFEREE WARE: Well, then, that's great. I
5 mean, you know, we're going to have a youngster here that --
6 and a mother that doesn't have any transportation and that
7 can get real hairy if we've got a sick kid.

8 MR. HINDS: Well, we're going to have to get
9 another hearing date to be able to complete (inaudible)

10 UNIDENTIFIED VOICE: May I use the phone to
11 call my office?

12 REFEREE WARE: Sure. Yes. Just go right
13 through that way. I have a trailing date at 3:00 p.m. on
14 July the 6th.

15 MS. EDINBURG: Your Honor, I won't be in
16 town. I'm sorry. I'll be gone that whole week and my plane
17 doesn't arrive --

18 REFEREE WARE: Never mind, it's no good.
19 Ms. Edinburg's not going to be in town. I assume you're not
20 going to be in town the 7th either.

21 MS. EDINBURG: Yeah. I'm coming back that
22 night. July 6th I'm back. I will be in town July 7th.

23 MR. HINDS: (Inaudible) July 7th.

24 REFEREE WARE: I have a trail at 10:00 for an
25 hour and a half. July 7th, Friday July 7th.

1 MR. HINDS: It's all right with me with the
2 understanding that I have a phone conference with Judge
3 (inaudible) at 1:30. If it's open the afternoon --

4 REFEREE WARE: It's not going to go in the
5 afternoon. It can't. That's a Friday, that's our juvenile
6 afternoon.

7 MR. HINDS: Okay. So (inaudible) in the
8 morning? Okay. Now hold that date just a second, please.

9 REFEREE WARE: Okay. Well, we take a trail -
10 - it is a trail but it's at 10:30 on July the 7th.

11 MR. HINDS: (Inaudible) put down additional
12 trials, do not cancel the other ones. I think there's going
13 to be (inaudible) July 7th?

14 REFEREE WARE: Seventh at 10:30 a.m.

15 MR. HINDS: Ten-thirty, continued hearing,
16 and keep the other date on the 14th (inaudible) Wilfred Case.
17 Thank you. 'Bye bye.

18 MS. DYERS: Your Honor, who are we trailing?
19 Perhaps as we get closer to that we can call them to see --

20 REFEREE WARE: All I have is a number. I
21 don't have attorneys down here in my docket book.

22 MS. DYERS: If (inaudible) then I'll check on
23 (inaudible)

24 REFEREE WARE: 89DR503.

25 MS. EDINBURG: May I just inquire what we're

1 going to do between now and July 7th about the car?

2 MR. HINDS: Well, you have \$1,500. I think
3 I've done pretty good being in this case a week to get
4 started on something. I don't think we're in a position to
5 do anything more.

6 REFEREE WARE: I'm not in a position -- I
7 have not heard from the other side, Ms. Edinburg. I am not
8 in a position to enter any orders with regards to the car.
9 I'm sorry. I realize that this is (inaudible) that's the
10 reason I'm trying to get you in as soon as I possibly can.
11 And I know I'm spreading this case all over the map, but I'm
12 trying to address some of these issues that are going to come
13 to crunch. I realize that that's a problem. I don't know.
14 Do the best you can in the interim.

15 MR. HINDS: You've been very gracious, Judge.
16 Thank you.

17 MS. EDINBURG: Thank you.

18 (Whereupon, the above-entitled matter was
19 concluded.)
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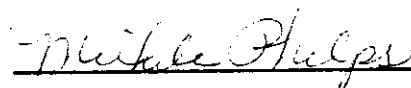
CERTIFICATE

I, Michele Phelps, certify that I transcribed this record from that tape recording of the above-entitled matter which was heard on June 15, 1989.

I further certify that the aforementioned transcript is a complete and accurate transcript of the tape-recorded proceedings based upon the audio faculties of these tapes and my ability to understand them. (Inaudibles are due to microphones not working properly, excessive noise, or muffled voices.)

I am not attorney nor counsel, nor in any way connected with any attorney or counsel for any of the parties to said action, nor otherwise interested in the outcome of this action.

Signed this 27th day of June, 1989, at
Aurora, Colorado.



Michele Phelps
Official Transcriber