# IN THE DISTRICT COURT OF TULSA COUNTS OF STATE OF OKLAHOMA

D. BARTLETT,		May 2 6 2000
	Plaintiff,	STATE OF CHILL THE SCHOOL
		Case No. FD-2002-522 ) Judge Haskins
S. BARTLETT,		)
	Defendant.	;

# MOTION FOR PARTIAL SUMMARY JUDGMENT AND BRIEF IN SUPPORT

The Plaintiff, Dewey F. Bartlett, Jr. (Dewey), moves for summary judgment regarding the determination of his separate property. There is no substantial conceversy as to any material fact or as to the law governing characterization of separate property. Plaintiff offers the following points and authorities for the Court's consideration.

#### Background

Dewey inherited a substantial interest in Keener Oil Company (KOC) and/or other Bartlett family assets in 1975, following the death of his paternal uncle, David A. Bartlett. The interest in the oil company was held in trust for Dewey and his two siblings. Dewey was co-trustee and a non-family member was the other co-trustee. From 1975 until 1987, KOC was run by a non-family hired manager. Dewey married Susan Bartlett (Susan) in 1982. In 1987, Dewey received distribution of the bulk of trust assets and took control of the management of KOC. Dewey earned a salary for his management duties, distinct from his interest distribution from KOC. During most of his 20-year trustriage to Susan. Dewey personally managed his assets, which consisted of KOC.

estate holdings, and an investment portfolio. During the marriage, Dewey's sources of funds were assets inherited, earnings derivative of assets inherited, in one form or another from his uncle, gifts from his mother, and the earned salary from KOC. The only funds which were marital property were Dewey's earned salary during the marriage. Additionally, Dewey had substantial separate personal property accumulated prior to his marriage, as detailed in Ex. A. The parties lived a lifestyle which exceeded Dewey's salary and thus consumed a large portion of Dewey's separate estate.

At issue in this case are tracing the proceeds from the partnership interest, real estate interest, and accounts maintained at the Bank of Oklahoma. BOK Account No. 1 ) was held in the name of Dewey F. Bartlett, Jr. He was the sole signatory over the account. The account lists his office address. Each month, Dewey deposited in BOK Account No. I salary from KOC and, periodically, he deposited some carnings from his investment holdings. BOK Investor Fund (Acct. No. 39) was

household expenses such as utilities, taxes, insurance, repairs, entertainment, childcare and school tuition. As excess funds accumulated in BOK Account No. 1 because of earnings from separate property holdings, Dewey periodically transferred the excess funds to the BOK Investment Account for reinvestment and management. Most earnings from separate property were deposited directly into the BOK Investor Fund.

At no time was Susan employed by KOC or its successor or any other industry, nor was she involved in the management of KOC or any of Dewey's investments. Prior to marriage, Susan received her undergraduate degree. Susan brought no assets into the marriage. Three years ago, at the time of the parties' initial separation, Susan elected to return to school to earn a post-graduate degree. During the pendency of the divorce, Susan has remained unemployed, living in the marital home. Susan's household and living expenses have been paid monthly through Dewey's payment of separate maintenance temporary alimony. Dewey has paid educational expenses and other expenses in addition to alimony.

One child was born of the marriage, Dewey F. Bartlett, III. Susan has temporary custody of Dewey F. Bartlett, III, who will be 16 years old July 12, 2003.

It is undisputed that the source of all the property acquired during the marriage, except Dewey's salary, was from Dewey's inherited assets: KOC, real and personal property, cash, stocks, and earnings generated from assets inherited by Dewey (from his uncle) and through *Inter stress* gifts from Dewey's mother. There was no other source of income except income generated from Dewey's inheritance and his salary.

It is also undisputed that, despite Dewey's best managerial efforts, there was no enhancement in the value of Dewey's inherited estate during the course of the marriage. In fact, the value of Dewey's inherited estate declined during coverture through depletion or depreciation. Dewey managed his inheritance by transferring assets among and between the various components of his total inheritance.

On February 6, 2002, Dewey filed a Petition for Divorce. As of October 2002, Dewey's separately-owned property consisted of the following:

NO.			Asset

- 1. Marketable Securities
- Oil and Gas Interests-Distributed in Liquidation of KOC
- Lumen Energy
- 4. Keener Oil & Gas Company (100%)
- Pecan Farm, Osage County
- 6. Farm Equipment
- Condominium, 50 E. Woodward
- 8. Notes Receivables, Sage Properties Ltd.

In addition to these assets, Dewey's separately-owned personal property also included property listed in Ex. A.

#### **Undisputed Facts**

1. The Bartlett family began an oil business in Oklahoma in the early 1910's and continued operations via various entities which eventually became known as Keener Oil Company ("KOC"), a partnership. Over the years and beginning before the parties were married. Dewey began receiving interests in KOC through inheritance and family gifts. Dewey eventually restructured his portion of KOC into a corporation. Keener Oil

Son attached Ex R Spreadsheet

and Gas Company (KO&G). Dewey and his minor son currently own 100% of the stock in KO&G. (See Affidavit of Dewey Bartlett, attached as Ex. C, and Assignments, attached as Ex. D.)

- 2. Susan has never been employed by KOC or KO&G and she has never been involved in the management of KOC or KO&G. (Ex. C and Ex. F.)
- 3. Beginning in 1974, prior to the parties' marriage, Dewey became a partner in a real estate lot development company known as Sage Properties, LTD. ("Sage"). Dewey contributed funds from his separate property to the partnership until 1983. (Ex. C.)
- 4. Susan has never had any involvement with Sage, and she never contributed any assets to Sage. (Ex. C.)
- 5. In 1987, Dewey received a \$697,884 cash distribution from the D.A. Bartlett Trust, his uncle's trust. Dewey began investing these funds into various CD's, treasury notes, investor funds and common stocks. All of these holdings were eventually consolidated into one brokerage account at Minshall & Company, held in Dewey's name alone. (Ex. C.)
  - 6. Susan never contributed assets to the Minshall & Company Brokerage Account. (Ex. C.)
- 7. In December of 1991, KOC acquired 70,480 shares in Lumen Energy Corporation ("Lumen"). The Lumen shares were later distributed to the shareholders of KOC, and Dewey received 20,590 shares of Lumen. (Ex. A and Ex. D. Assignment, and Ex. F.)

- 8. In 1993, Dewey received a major distribution from his interest in KOC which he used to purchase Municipal Bonds at BOK. Money from the matured bonds and applicable interest was deposited in the BOK Investor Fund. (Ex. C.)
- 9. Susan never made any contribution to this account. No marital property was ever placed into this account and no marital assets were placed into the account except for proceeds from the sale of the Sophian condo in the amount of \$94,000+ in the mid-1990's. (Ex. C.)
- 10. The Sophian condo is the only property that was owned in the name of both Susan and Dewey subject to the detail listed in Ex. B. (Ex. C.)
- 11. Dewey also used inherited assets to fund his separate BOK Investor Fund. This account was held in Dewey's name alone, and he was the sole signatory over the account. Dewey deposited earnings from separately-owned property into this account over the years. (Ex. C.)
- 12. Susan never contributed any assets to the BOK Investor Fund, and no marital property was placed into the account, except for proceeds from the sale of the Sophian condo. (Ex. C.)
- 13. Dewey owned a one-third interest in the Courthouse Hollow Ranch, an interest Dewey inherited as his separate property from the D.A. Bartlett Trust and his mother. The ranch was sold in April 2000, and Dewey received \$823,579 following the sale. Dewey re-invested in a tax free exchange a portion of his separate property "ranch sale" money into the Osage County Pecan Farm. The excess money from the "ranch sale" has been distributed and used to purchase his condo and farm equipment and

financed expenses at the farm and personal expenses. (Ex. C and Ex. E, 1031 Exchange documents.)

- 14. Dewey maintained two accounts at the Bank of Oklahoma (BOK) held in his name alone on which he was sole signatory. (Ex. C.)
- 15. Dewey used BOK Account No. 1 to deposit salary from KOC and KO&G and periodically he deposited earnings from his other investment holdings in that account. (Ex. C.)
- 16. Each month from BOK Account No. 1, Dewey withdrew a check payable to Susan Bartlett in the amount of \$2,000. Susan deposited the \$2,000 check into BOK Account No. 3, which was an account held in her name and upon which she was the sole signatory. (Ex. C.)
- 17. Also each month out of BOK Account No. 1, Dewey paid routine household expenses, entertainment, childcare, and school tuition. Any excess funds accumulating in BOK Account No. 1 Dewey periodically transferred to BOK Investor Fund for reinvestment and management. Any excess funds were separate funds, because the money paid to Susan and for living expenses always exceeded Dewey's salary. (Ex. C and Ex. F.)
  - 18. BOK Investor Fund was used by Dewey for reinvestment and management of his separate investments acquired through the use of the separate funds which he received from his uncle. (Ex. C.)
    - 19. Dewey and Susan never had a joint checking or savings account. (Ex. C.)

- 20. The source of all property acquired during the marriage was from Dewey's inherited assets. Susan contributed no property to the marriage. (Ex. C.)
- 21. The value of Dewey's inherited estate declined during coverture through depletion or depreciation. (Ex. C.)
- 22. The spreadsheet attached as Ex. B detailing the historical statements of net worth shows the tracking of the funds from Dewey's separate property into either the marital estate or maintained as Dewey's separate property from June 1987 through October 2002. (Ex. C and Ex. B.)
- 23. The personal property identified in Ex. A was owned by Dewey prior to the marriage. (Ex. A. and Ex. C.)

### Argument and Authorities

Summary judgment should be granted where there is no substantial controversy as to any material facts and when those undisputed facts lead to judgment for the moving party as a matter of law. District Court Rule 13, 12 O.S., ch. 2, app.

Dewey's Property Is Separate Property under Source of Funds Rule

Oklahoma follows the "original source of property" or "source of funds" theory in determining what property is marital and what property is separate. Longmire v Longmire, 376 P.2d 273 (Okla, 1962). As stated by Robert Spector, "This approach to marital property classifies interests in a particular piece of property depending upon the source of funds and effort which created value in the property." Apportionment of the increase in Value of Separate Property During Marriage: The Effect of Ford v. Ford. 50 (Okl 368) (1988) (Emphasis added )

Under the "source of funds" theory, the Oklahoma Supreme Court recognizes two orimary sources of property: separate and marital.

By one definition, "separate property includes, inter alia, property owned by a spouse before the marriage which retains its separate status during the marriage because it was maintained as a spouse's individual property in an uncommingled state." Barnett v. Barnett, 917 P.2d 473 (Okla. 1996). The "inter alia" is an important sentence qualifier. As shown below, separate property also retains its separate character during marriage if it does not increase in value by the efforts, funds, or skills of the non-owning spouse. Templeton v. Templeton, 656 P.2d 250 (Okla. 1983) and Mothershed v. Mothershed, 701 P.2d 405 (Okla. 1985). Separate property is also property that is inherited by one spouse. Inherited property retains its separate status if it is not enhanced in value by the joint efforts of both parties. Williams v. Williams, 1967 OK 97.

Marital property is that which is accumulated by the joint efforts of the spouses during their marriage. Umber v. Umber, 591 P.2d 299 (Okla. 1979). Commingled property is the mixing of one or both spouses' separate assets with funds generated by the parties' joint industry, funds, or skills during coverture rendering the funds indistinguishable. As will be shown below, Dewey's management of his separate property during the marriage did not result in mixing his separate assets with any funds which were enhanced by Susan's efforts, skills, or funds. Additionally, Dewey's inherited estate decreased in value. Further, the proceeds from the one marital asset, the Sophian condo, remained distinguishable even though the proceeds were deposited in the

2. The Property Identified Remains Dewey's Separate Property Because the Value Was Not Enhanced During Coverture by the Non-Owning Spouse

Recognition of separate ownership of property acquired during marriage is dependent upon the original source of all property. Longmire at 275. Separate property which does not enhance in value during coverture by money or efforts of the non-owning spouse retains its character as separate property and is restored to the owner. As stated in Longmire:

Jointly acquired property within the meaning of said statute [12 O.S. § 1278, now 43 O.S. § 121] is that accumulated by the joint industry of the husband and wife during marriage. In the present case the separate funds of plaintiff were only *converted* into the now involved property.

Id. at 275. (Emphasis added.)

The case of Templeton v. Templeton further refines the protections placed on premarital separate property. In that case, Mrs. Templeton owned an apartment complex with her brother prior to her marriage to Mr. Templeton. Her share of the apartment had been purchased with funds she inherited from her parents and none of her husband's funds were expended on the apartment complex. Ultimately, Mrs. Templeton purchased her brother's share of the apartment and the apartment dramatically increased in value during coverture. Mr. Templeton was intermittently employed and made only minimal financial contributions to the marital estate. Mrs. Templeton worked as a school teacher and her earnings, along with the rental from the apartment complex, supported the couple. Although Mr. Templeton did some minor repairs on the apartment complex, and he worked for a brief time as manager, most of the time the property was managed by an independent, full-time employee. Mr. Templeton was paid a salary during the time he

managed the apartment complex. The court found the apartment complex retained its character as Mrs. Templeton's separate property. The court explained:

one spouse brings separate property to the marriage, increased or enhanced value of the property will not constitute jointly acquired property during coverture unless the enhancement value was the result of joint efforts, skill, or funds of both spouses. In order for a spouse to successfully prove that enhanced value is the result of joint endeavors, it must be shown that the net worth of the property increased during the marriage as the direct result of substantial contribution by the spouse of effort, skill, or funds. Enhancement in the value of a spouse's separate property which is caused by appreciation, inflation, changing economic conditions, or circumstances beyond the parties' control is *not* jointly acquired property unless the non-owning spouse can prove his/her contributions were also a causal factor.

#### id. at 251. (Emphasis added.)

In summary, Templeton holds even if separate property enhances in value during coverture by appreciation, inflation, changing economic conditions, or other circumstances outside the parties' control, it will remain the separate property of the owning spouse unless the non-owning spouse contributed to the enhanced value by effort, skill, or funds. The court concluded that even though Mr. Templeton had performed some menial labor and contributed some managerial skills, "he was more than adequately compensated for any contribution he made because he was paid a salary for these, and during much of the marriage, he was almost totally dependent." Id, at 252

Any household effort contributed by Susan to the marriage was more than adequately compensated by her receipt of \$2,000 each month for her personal use. During the entire marriage, Dewey's inheritance was kept in separate accounts or properties subject to his control alone.

In Mothershed v. Mothershed, 701 P.2d 405 (Okla. 1985), the issue of separate property was again visited by the Oklahoma Supreme Court. Mrs. Mothershed's father formed an oil and gas company but relied on her husband to manage it. However, the company did not increase in value during the marriage. The court held because there was no increase in the value of the oil and gas company during the husband's stewardship, the total property was separate and not subject to division. The court stated that merely fulfilling the role of husband was insufficient joint industry to cause any appreciation in value of the oil and gas company.

In Chapman v. Chapman, 614 P.2d 90 (Okla. App. 1980), the wife brought no assets into the marriage. With premarital separate property, shortly after the marriage, the husband paid off the wife's debts, bought a house, ran an unprofitable business and acquired an interest in a motor home dealership. The parties were married four years. At the conclusion of the marriage, the court found that any increase in the value of the husband's premarital assets was due to inflation rather than any significant contribution of the wife, and thus the assets retained the character as separate property. The court also noted that the husband's support of the wife during coverture compensated her for whatever interest she may have acquired by virtue of her efforts in any joint property.

In Colclasure v. Colclasure, 892 P.2d 676 (Okla. App. 1995), the parties were married twelve years. Prior to the marriage, the husband's parents deeded 10 acres to the husband. Some improvements were made to the land before the marriage. The land contained the parties' home and business. Both parties were horse trainers and the land had pastures for the horses, stables, barns, and other structures used for training had

During the marriage, the husband mortgaged the property for improvements and to finance the parties' business. The court found that the land acquired by the husband prior to his marriage remained his separate property and that only the improvements to the land, enhanced by the parties' joint industry, were divisible.

In this case, only the proceeds from the Sophian condo are divisible, in that it was the only property that was owned in the name of both Susan and Dewey.

Wilhelm v. Welhelm, 678 P.2d 727 (Okla. App. 1983), states the legal principle for distribution of jointly-acquired property based on the *relative* endeavors of the parties. The court states that the question of "need affords no criterion in this determination." The court stated:

In making the determination of what would constitute an equitable division of jointly acquired property, the paramount consideration involves a determination of the extent of each's party's rights in the property in question. The question of need affords no criterion in this determination. Moreover, the matter of personal conduct is material only to the extent that it may reflect the existence or nonexistence of that endeavor which contributed to the creation of the marital estate.

ld. at 727

Wright v. Wright, 577 P.2d 922 (Okla. App. 1978), indicates that income generated from a company which is separate property is a separate asset.

Occurred Sufficient to Remove the Characterization of the Subject Property as Separate Property.

Marital property is "jointly acquired property" which is accumulated by the joint efforts of spouses during their marriage. Barnett v. Barnett. A classic case demonstrating this principle is Umber v. Umber, 591 P.2d 299 (Okla, 1979). In Umber,

at the time of the marriage, the husband had \$25,000 which he received from the sale of a drugstore. The wife brought \$3,700 to the marriage, in addition to an automobile and certain items of furniture. The parties' premarital separate funds were commingled and utilized to purchase a pharmacy. In order to operate the pharmacy, the wife became a registered pharmacist and worked in the store. Although the wife did not draw a salary from the drugstore, she actively contributed to the accumulation and enhancement of the marital estate. As a result of the parties' joint industry in pharmacy, the parties accumulated \$150,000 over their 20-year marriage. The court held that the property was "marital" and that any separate property held by the parties before the marriage had lost its character as separate property. The \$150,000 was subject to equitable division.

Umber is clearly distinguishable from Mothershed and Templeton. Unlike the latter two cases, in Umber, both parties brought separate funds to the marriage. The funds were commingled to purchase a pharmacy in which both husband and wife worked. The funds lost their character as separate assets as a result of commingling and investment in a joint industry.

In Dewey's situation, Susan brought no assets to the marriage, nor was she employed during the marriage in any outside industry or at KOC or KO&G. KOC and KO&G were operated in the same manner both prior to and after the parties' marriage, except for a change in structure from a partnership to a corporation. Moreover, in contrast to the facts in Umber, during the marriage, Susan did not assist or make any sacrifice to assist Dewey or help in establishing or furthering Dewey's professional

career. Rather, Dewey and Susan both lived exclusively off Dewey's salary plus carnings from Dewey's separate inheritance.

All Dewey's inherited assets, KOC, cash, real estate, stock portfolios should be viewed as a single inherited unit. The fact that Dewey used earnings from KOC (BOK Account No. 1) to reinvest in his other separate holdings (BOK Investor Account) should not raise an issue of commingling, unless it can be shown that his separate holdings increased in value because of Susan's contribution of skills, efforts, or funds during coverture. As previously stated, any interest that Susan may have had in Dewey's labor during coverture was adequately compensated to her during the marriage by Dewey transferring \$2,000 each month (BOK Account No. 3) to her for her exclusive use. Moreover, Susan benefited by Dewey's paying all household expenses from income derivative of his separate assets in addition to his salary.

The Court in Sparks v. Sparks (Okla. App. 1997) (unpublished) addressed the issue of "tracing separate property." Tracing is an account of separate property that, although changes in the form of the asset have occurred, its source remains identifiable. Funds received from the sale of inherited stock, run through a checking account, when reinvested, need not lose their character as separate assets. Each individual stock transaction need not be identified, rather, the pattern of conducting the stock transaction from an identifiable source need only be shown. In Dewey's circumstance, since it is undisputed that Dewey's only source of investment in his stock portfolio was his inherited assets, it is immaterial that he does not trace each stock transaction. Dewey can trace the fact that he had no other source of income except that which was represented.

earnings from his inherited assets. Dewey's salary was totally expended for living expenses.

Similarly, all the personal property identified on Ex. A was owned by Dewey prior to the marriage and therefore remains Dewey's separate property.

Agent v. Agent, 604 P.2d 862 (Okla. App. 1980), represents the classic textbook were married for fourteen years. During the marriage, two children were born, and both were in elementary school at the time of the divorce. At the time of their marriage, Dr.

character as separate property because it was commingled with his earnings from his medical practice and used to obtain and improve the marital residence. The court stated:

If separate property is confused, blended, or commingled with community property that its identity is lost, the entire mass ordinarily becomes community property, unless the community component is comparatively small.

ld. at 866.

The legal theory of "commingling" addressed in Agent is not relevant to Dewey's situation. Unlike Mrs. Agent, Susan did not work during her marriage to Dewey, nor did she support the family while Dewey obtained a professional degree. Any commingling of the Sophian condo asset is comparatively small, as shown by Ex. B. Unlike Dr. Agent, Dewey's income was derivative of his inheritance, while Dr. Agent's income was derivative of a profession he was able to pursue because of Mrs. Agent's financial support while he attended medical school. Agent clearly illustrated marital joint effort, industry, and funds, commingled with assets inherited and infused into marital estate.

Meason v. Meason, 717 P.2d 1165 (Okla. App. 1986), presents another textbook case of commingling and again illustrates the distinction from Dewey's circumstance. The Measons were married for 36 years. During the marriage, the majority of the couple's income and property came from the husband's salary as a geologist, wife's salary as a school teacher, inheritance and lifetime gifts from wife's parents, and income from rental property. During the marriage, Mr. Meason established an oil and gas consulting business, Oil Ventures. Mrs. Meason made a capital infusion of \$40,000 into the business by loaning the business the funds from her separate integers.

S457,513 in 1983. The value represented working interests and royalty interests. In operating Oil Ventures, the company acquired some debt. The court found that both Oil Ventures and its indebtedness were jointly acquired during the marriage, and both the assets and debt were subject to equitable distribution as marital.

#### Conclusion

The separate property identified in Ex. A and Ex. B should remain and be adjudged the separate property of Dewey. Plaintiff respectfully requests that this Court grant him partial summary judgment and declare that the personal property in Ex. A, the marketable securities, the oil and gas interests, the Lumen Energy shares, the Keener Oil and Gas Company shares, the Pecan farm in Osage County, the farm equipment, the condominium at 50 East Woodward, and the Sage property's limited note are the separate property of Plaintiff.

Respectfully submitted.

FELDMAN, FRANDEN, WOODARD, FARRIS & BOUDREAUX

Bv:

Joseph R. Farris, OBA #2835 525 South Main, Suite 1000 Tulsa, Oklahoma 74103 918/583-7129 (Phone)

918/584-3814 (Fav)

ATTORNEYS FOR PLAINTIFF

#### FURNITURE THAT I OWNED PRIOR TO MY MARRIAGE As of January 1, 2002

#### LIVING ROOM

- Large Oriental style rug with red shield in middle purchased prior to marriage
   Painting by Bill Rabon of raccoon purchased prior to marriage
- Antique glass door drop leaf desk owned by Edgar Poe family purchased prior to marriage
- Large number of books purchased prior to marriage

  5. 2 table lamps art deco style chrome and black purchased prior to marriage

  6. Tiffany style lamp with glass shade purchased prior to marriage
- 7 Register style wall clock given to me by my father
- 8, 2 Curtis photographs of Indians purchased prior to marriage
- 8. 2 Curtis photographs of Indians purchased prior to marriage
  9. Bill Rabon painting of red flowers and green leaves. purchased prior to marriage
  10. Melntosh Power Amplifier purchased prior to marriage
  11. Number of compact disks. purchased prior to marriage
  12. 2 large brass candle sticks from the estate of David Bartlett
  13. Various Indian rugs property of Ann Burke third floor.
  14. Painted Chinese table in dining room from estate of David Bartlett
  15. Number of books mostly from Grand Lake house

#### KITCHEN

- Ceiling tight fixture purchased prior to marriage
   China and silver sets from my grandmother and great aunt
   Dining table with matching chairs in breakfast room
   Various crystal wine and water glasses Baccarat and Tiffany- from estate of David Bartlers.

#### DOWNSTAIRS HALL ENTRY

- 1. Wall clock with painted glass front Aunt Harriet Follett gift from Ann Burke prior to
- 3. 2 large clear glass vases from the estate of David Bartlett
- 4 Round mirror with candle holders from estate of David Bartlen

#### STAIR WELL

- 1. Large chandelier over stairs from the estate of David Bartlett
- 2. Wall mirror with painted frame from Grandmother Noll from the estate of David Bartlett

- 1. Leather chair with ottoman purchased prior to marriage

- 2. Books and heirlooms from my mother's and father's family eg-my father's banks.

  3. Bill Rabon painting of woman playing violin purchased prior to marriage.

  4. Woman's dressing table with matching mirror and cane bench property of my mother.

  Might be from Grandmother Noll

#### THIRD FLOOR

- 1. Various books-mostly photographic purchased prior to murriage
  2. Wood book shelf property of Keener Oil Company
  3. Old camera gift from Connie Smith-belonged to her father, my grandfather.
  4. Various photographic negatives shot by me.
  5. Computer and printer property of Keener Oil Co
  6. 2 wood framed office chairs property of Keener Oil Company

- 7. Various Indian rugs property of Ann Burke
- S. Pine top desk on third floor from Grand Lake house property of Ann Burke

#### BASEMENT

- Record albums purchased prior to marriage
   Several pencil drawings by Bill Rabon purchased prior to marriage
- 3 Metal electric fan purchased prior to marriage

#### GARAGE APARTMENT

- Some furniture property of Keener Oil & Gas Company
   Begged chair from the estate of David Bartlett
   Various Indian rugs property of Ann Burke

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## NOTES TO HISTORICAL STATEMENTS OF NET WORTH

- (2) In July of 1987 Dewey received \$597,684 in cash and cash items from the David A. Bartlett Trust. He also received an additional 22 7486% interest in Resear Oil Co. from the Trust, plus a 1/2 increase in Deames Cry
- (3) In the first six months of 1994 Keener Oil Co. was essentially Equidated. Dewey received approximately \$900,000 cash and oil & gas properties. He contributed the properties to a newly formed contributed to receive 1/3 of the overfunding of the Keener Oil Co.'s pension plan when IRS approved to terminate was obtained (approximately \$380,000).
- (4) In the later portion of 2000 the Delaware City, properly owned 1/3 each by Dewey and his brother and sister was sold. Dewey received approximately \$470,000 in cash and Osage City, real solate for the Change City.

#### IN THE DISTRICT COURT OF TULSA COUNTY STATE OF OKLAHOMA

	Plaintiff,	
		) Case No. FD-2002-522
S. BARTLETT,		) Judge Doris Fransein )
	Defendant.	

### AFFIDAVIT OF DEWEY F. BARTLETT, JR.

STATE OF OKLAHOMA )	

- I, Dewey F. Bartlett, Jr., of lawful age, being first duly sworn, state upon oath as follows:
- The Bartlett family began an oil business in Oklahoma in the early 1910's and continued operations by various entities which eventually became known as Keener Oil Company (KOC), a partnership. Over the years and beginning before I married Susan Bartlett, I began receiving interest in KOC through inheritance and family gifts. I eventually restructured my portion of KOC into a corporation, Keener Oil & Gas Company (KO&G), which is reflected in Exhibit D to the Motion for Partial Summary Judgment. I currently own nearly 100% of the stock in KO&G and my minor son owns the remaining stock in KO&G.
  - 2. Sexual Bartlett has never been employed by KOC or KOAG and she has never been involved in the management of KOC or KOAG. She is not a should be
  - Represent to 1974, prior to my manage to Seaso Barden, I become a partner in a next extate he development company knows as Sage Properties. Ltd. (Sage). I commissed fines form my property to the partnership until 1963.

- Susan Bartlett has never had any involvement with Sage and she has never contributed any assets to Sage.
- In 1987, I received a \$697,884.00 cash distribution from the D. A. Bartlett Trust. I began investing these funds into various CD's, treasury notes, investor funds, and common stocks. All of these holdings were eventually consolidated into one brokerage account at Minshall & Company and held in my name alone.
  - Susan Bartlett never contributed assets to the Minshall & Company Brokerage
     Account.
  - 7. In December 1991, KOC acquired 70,480 shares in Lumen Energy Corporation.

    The Lumen shares were later distributed to the shareholders of KOC and I received 20,590 shares of Lumen.
  - In 1993, I received a major distribution from my interest in KOC, which I used to purchase municipal bonds at BOK. The money was deposited in the BOK Investor Fund.
  - 9. Susan Bartlett never made any contribution to the BOK Investor Fund. No marital property was ever placed into this account and no marital assets were placed into the account, except for the proceeds from the sale of the Sophian condo in the amount of \$94,000+ in the mid-1990's.
  - 10. The Sophian condo is the only property that was owned jointly in the name of both Susan Bartlett and me that ever appeared in the BOK Investor Fund.
  - It is account was held in my name alone, and I was the sole signatory over the account. I deposited earnings and dividends from separately-owned property into this account over the years and the account has always been maintained as my separate property account.

- 12. Susan Bartlett never contributed any assets to the BOK Investor Fund and no marital property was placed into the account, except for proceeds from the sale of the Sophian condo.
- Bartlett Trust and as a separate gift from my mother. The ranch was sold in April 2000 and I received \$823,579 following the sale. I reinvested in a tax-free exchange a portion of the money into the Osage County pecan farm. The excess money from the ranch sale has been distributed and used to purchase my condo and farm equipment and has been used to finance expenses at the farm and my personal expenses. The tax-free 1031 exchange is detailed in Exhibit E to the Motion for Partial Summary Judgment.
- 14. I maintained two accounts at the Bank of Oklahoma which were held in my name alone and on which I was the sole signatory. I used BOK Account No. 1 to deposit salary from KOC and KO&G. Periodically, I deposited dividends from my other investment holdings in that account.
- Bartlett in the amount of \$2,000.00 Susan Bartlett deposited the \$2,000.00 check into BOK Account No. 3, which was an account held in her name and upon which she was the sole signatory.
- 16. Also out of BOK Account No. 1, I paid routine household expenses, entertainment, child care, and school tuition. Any excess funds accumulating in BOK Account No. 1 I periodically transferred to the BOK Investor Fund for reinvestment and management. Any excess funds were separate funds because the money paid to Susan Bartlett and for living expenses always exceeded the salary I earned from KOC.

- 17. I used the BOK Investor Fund for reinvestment and management of my separate investments acquired through the use of separate funds which I had received through inheritance.
  - 18. Susan Bartlett and I never had a joint checking or a joint savings account.
- 19. The source of all property acquired during the marriage was from my inherited assets. Susan Bartlett contributed no property to the marriage.
- 20. The value of my inherited estate significantly declined during coverture, through depletion or depreciation.
- 21. The spreadsheet attached as Exhibit B to the Motion for Partial Summary Judgment accurately details the historical statements of net worth and shows a tracking of the funds from my separate property into either the marital estate or maintained as my separate property from June 1987 through October 2002.
- 22 The personal property identified in Exhibit A to the Motion for Partial Summary Judgment was owned by me prior to marriage and is my separate property.

FURTHER, Affiant saith not.

Dowey F. Bartlett, Jr.

May, 2003. SUBSCRIBED AND SWORM before me by Dewey F. Bartlett, Jr. on this day of

NOTARY PUBLIC

My Commission Expires:

Nov 12 200 3

Commission No.:



	Salary	Company
	\$0.00	Keener Oil
	\$28,933 00	Keener Oil
	\$45,613.00	Keener Oil
	\$51,082.00	Keener Oil
	\$47,260.00	Keener Oil
	\$59,792.00	Keener Oil
	\$63,652.00	Keener Oil
1989	\$76,657.00	Keener Oil
	\$91,889,00	Keener Oil
	\$12,000.00	City of Tulsa
1992	\$12,000.00	City of Tulsa
1993	\$12,000.00	City of Tulsa
	\$3,130.00	
	\$16,550.00	City of Tulsa
	\$92,300.00	Keener Oil
	\$93,020.00	Keener Oil
	\$96,220.00	Keener Oil
	\$76,320.00	Keener Oil
	\$95,200.00	Keener Oil
	\$95,200.00	Keener Oil
	\$95,200.00	Keener Oil
		Keener Oil