NORTH CAROLINA                                     IN THE GENERAL COURT OF JUSTICE

\_\_\_\_\_\_\_ COUNTY                                                       DISTRICT COURT DIVISION

                                                                                                    \_\_\_\_\_ CVD\_\_\_\_\_

\_\_\_\_\_\_\_\_,                                    )

                        PLAINTIFF,                            )

                                                                        )

vs.                  )                    IRA CONSENT ORDER

                       )

                                                                       )

\_\_\_\_\_\_\_\_\_,                              )

                         DEFENDANT                       )

            THIS CAUSE coming on to be heard and being heard by the undersigned judge presiding upon the parties' claims for a distribution of a portion of the Individual Retirement Account ("IRA") administered by \_\_\_\_\_\_\_ (hereinafter also "the Plan") and held in the name of \_\_\_\_\_\_\_\_\_\_\_ and the parties having agreed on the division of their marital property pursuant to a Consent Order enter on\_\_\_\_\_\_\_\_ and with the consent of the parties, the Court, having found it has jurisdiction over both the parties and the subject matter, hereby enters the following Consent Order to address the assignment to Plaintiff-Alternate Payee of a portion of the benefits held in Defendant's name with the Plan and the Court hereby makes the following Findings, Conclusions and Decree:

            1.         This Order applies to an IRA account administered by Amerprise and held in the name of \_\_\_\_\_\_\_\_, and more particularly to the IRA benefits held in Defendant's name in \_\_\_\_\_\_\_\_\_\_ account number \_\_\_\_\_\_\_ (hereinafter also "the Plan"), which is a tax-qualified plan under the Internal Revenue Code ("Code").

            2.         The administrator of the plan is \_\_\_\_\_\_, and the mailing address for the Plan is \_\_\_\_\_\_\_\_\_\_\_\_\_, CFP Lipson, Zywicki, Williams, & Perry 1121 Situs Court; Suite 300; Raleigh, NC 27606-4164.

            3.         The party to whom payment is to be made under this Order is Plaintiff; and she is identified (with her last known mailing address) as follows:

            \_\_\_\_\_\_\_\_\_ XXX-XX-XXXX (SSN)

                        Address

                        Raleigh, NC 27615

In the event Plaintiff moves from the above address, she shall notify the Plan in writing of her new mailing address.

            4.         The party whose account is subject to this Order, also called "Participant," is Defendant. Defendant is the spouse of Plaintiff, the parties having been married on \_\_\_\_\_\_\_\_, and having separated on \_\_\_\_\_\_\_\_. Defendant is identified (with Participant's last known mailing address) as follows:

            \_\_\_\_\_\_\_\_ XXX-XX-XXXX (SSN)

                        Address

                        Raleigh, North Carolina 27614

6.         As a part of the equitable distribution of the parties' marital property, Plaintiff shall be entitled to an assignment of one hundred percent (100 %) of Defendant's Amerprise IRA account number \_\_\_\_\_\_\_\_, to be calculated and distributed as follows:

A total of one hundred (100%) of the balance in Defendant account on the date of transfer. The amount(s) being transferred to Plaintiff pursuant to this Order shall be allocated by the IRA trustee from all sub- accounts in which Defendant IRA is presently invested.

The amount being transferred to Alternate Payee under this Order shall be her sole and separate property, free of any and all claims by Defendant-Participant. Similarly, all amounts remaining in Defendant's IRA account, following the transfer provided for under this Consent Order, shall be his sole and separate property, free of any and all claims by Plaintiff-Alternate Payee.

7.         The Trustee-to-Trustee transfer described in paragraph 1 above is a tax-free transfer pursuant to sections 408(d)(6) and 1041 of the Internal Revenue Code.

            8.         This Order creates and recognizes the existence of Plaintiff right to receive a portion of Defendant Plan benefits, which portion of said benefits are defined by State domestic relations law to be marital property subject to equitable distribution. This Order is intended to constitute an IRA Consent Order under sections 408(d)(6) and 1041 of the Internal Revenue Code and under the pertinent domestic relations statutes of this State, namely North Carolina General Statutes sections 50-20 *et seq*.

            9.         The transfer of said amount to an account for Plaintiff's benefit shall occur as soon as administratively feasible following entry of this Order; and the transfer shall be arranged as a direct (trustee-to-trustee) rollover.

10.       This Court has jurisdiction to enter this Order, which represents a fair and equitable division of the marital property held in the Plan. This Court retains jurisdiction over this matter for the purposes of enforcing the terms of this Order.

            11.       The Trustee-to-Trustee transfer described herein is intended by the parties to be a tax-free transfer pursuant to sections 408(d)(6) and 1041 of the Internal Revenue Code.   Accordingly, it shall be accomplished in such a manner as required by the Code in effectuating a tax-free transfer.

12.       This Court retains jurisdiction over this matter to amend this Order to cause it to implement the original intent of the parties, without in any way reducing the benefits to which the parties were reciprocally entitled under their property settlement.

            13.       The Court retains jurisdiction to amend this Order to fulfill the purposes set forth herein or as may be required by law.

            This the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_

                                                                                    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                                                                                    Judge Presiding

Consented to by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_, Plaintiff-Alternate Payee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_, Defendant-Participant