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**The Washington Law Group**  
**7 Chadbourn Road**  
**Fair Haven, Columbia**

From: Andrew Washington

Date: July, 2023

Dear Wendy,

## **I. Introduction**

Please see below, my answer regarding your question about the Harlan's counsel's offer. As established below you will be able to get the %50 percent of the stock of Digital Audio which amount to \$50 million dolloars under Pereira approached as has been explained below.

## **II. Analysis**

### **1. Are Harlan's DigitalAudio shares community property or separate property?**

Property that either spouse acquires during marriage belongs to the marital community. Columbia Family Code, Section 760. Community property is awarded to each spouse in an equal 50 percent share. id. In contrast, property that either spouse acquired before marriage belongs to that spouse and it is his or her separate property. Columbia Family code, Section 770. The proceeds of the property of the property that either spouse acquired before marriage also belong to that spouse. and the proceeds are his or her separate property even he or she acquired the proceeds during the marriage. id.

In Land the court held that characterization of the property is Charles's separate property because the property acquired before the marriage.

Here in your case when Harlan and you married in 1989, by the time of the marriage, Harlan was co-founded the DigitalAudio and the property since acquired before the marriage is Harlan separate property.

Therefore, the characterization of the DigitalAudio is separate property.

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**2. Did the community devote more than minimal effort involving Harlan's DigitalAudio shares during marriage so as to acquire an interest in any increase in value, during marriage, of the shares resulting in community property?**

Whenever community devotes more than minimal effort involving a spouse's separate property during the marriage, the community acquired an interest in any increase in value, during the marriage, of the separate property, and that interest is community property, and the interest is community property. In re Marriage of Dekker. The family court must apportion the increase in value, during marriage of one spouse's separate property whenever the community devotes more than minimal effort involving the separate property during the marriage. In re Marriage of Rand.

In Land the court held that %50 percent of the share in property is Charles community property because characterization of Charles's property under the community property acquired before the marriage but an interest in the community value acquired after the marriage. Land. The court contends that RIS's value principally due to the community efforts and Charles's hard work was the predominant cause of the increase. Land.

Here as in Land the value of the shares of the stock had fallen to zero when you and Harlan married in 1989 and at the time of separation in 2009 the value of the stock had risen to \$200 million dollars and that demonstrates that, at the time of the marriage there was not actually any valuable property in stock and that will be due to efforts of the community or increase the value due to the market. As you just preferred to raise the children while Harlan working at night shows that the increase of the stock was due to efforts of community. Further when Harlan worked on two different of products before the marriage, he could not bring any value in the property and in fact because the stock was not even marketable we can conclude that the value of the stock was because of the work of your husband and not being the marketable product and that was the value of your husband's work which is community property as your work was valuable is raising your children. Also you work in DigitalAudio at some time as well with shipping some hardware and software which was an efforts toward the grow if the stock.

Therefore as explained above the value of the stock is the efforts of the community property and the court likely under the Pereira method will characterize it as community property and community efforts more that the minimal effort involving the Harlan's shares of stock.

**3. How should the family court apportion the \$200 million increase in value, during marriage, of Harlan's DigitalAudio shares?**

Under Pereira, when increase in value, during the marriage of one spouse's separate property is due to community effort, such efforts are the predominant cause of the increase. Rand. Under the Van camp when increase in value during the marriage of spouse separate property is principally due to factors other than community property efforts, such efforts are the predominant cause of increase. Rand.

Here as in Land the court will grand %50 of the community property to you because the value of the shares of the stock had fallen to zero when you and Harlan married in 1989 and at the time of separation in 2009 the value of the stock had risen to \$200 million dollars and this shows that, at the time of the dissolution of the marriage when the value that will be due to efforts of

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the community or increase the value due to the market. As you just preferred to raise the children while Harlan working at night shows that the increase of the stock was due to efforts of community.

Therefore as established above the court will consider the value of the stock as community property and divide the value of the stock in half and grand %50 to you as community property which amounts to \$100 million dollars.

### **III. Conclusion**

Thank you for allowing me to conduct this research for you. If I can be of any further assistance on this, or any other matter, please do not hesitate to let me know.

Sincerely yours,

Andrew Washington

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**END OF EXAM**