

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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ELIZABETH LUCKY

Plaintiff,

– against –

JAMES LUCKY

Defendant.

ORDER

Index No. 4211/2017

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PRESENT: HON. JORDAN CHANCELLOR, J.S.C.

UPON THE CONSENT OF THE PARTIES AT THE FOOT HEREOF, IT IS HEREBY
ORDERED AS FOLLOWS:

1. Effect of This Order as a Qualified Domestic Relations Order: This Order creates and recognizes the existence of an Alternate Payee's right to receive a portion of the Participant's benefits payable under an employer-sponsored defined benefit pension plan that is qualified under Section 401 of the Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA"). It is intended to constitute a Qualified Domestic Relations Order ("QDRO") under Section 414(p) of the Code and Section 206(d)(3) of ERISA.

2. Participant Information: The name, last known address, social security number and date of birth of the plan "Participant" are:

Name: **JAMES LUCKY** ("Participant")

Address: **1 Any Street,**

City: **Smalltown** State: **NY** ZipCode: **10001**

Social Security Number: **123-454-6789** Birth Date: **January 1, 1952**

Participant's Attorney Information: Name of Attorney: **STEVEN L. ABEL, ESQ.**

Address: **101 South Broadway**

City: **Nyack** State: **NY** Zip Code: **10960**

Phone: **845-638-4666**

3. Alternate Payee Information: The name, last known address, social security number and date of birth of the "Alternate Payee" are:

Name: **ELIZABETH LUCKY** ("Alternate Payee")

Address: **111 Fifth Avenue**

City: **New York** State: **NY** Zip Code: **10002**

Social Security Number: **123-45-6780** Birth Date: **Nov. 1, 1956**

Alternate Payee's Attorney Information:

Name of Attorney: **Joseph Sharkston**

Address: **222 Seventh Avenue**

City: **New York** State: **NY** Zip Code: **10005**

Phone: **914-213-4567**

The Alternate Payee shall have the duty to notify the plan administrator in writing of any changes in his/her mailing address subsequent to the entry of this Order.

4. Plan Name: The name of the Plan to which this Order applies is the Hudson Retirement Plan — Final Average Pay Benefit (hereinafter referred to as "Plan"). Further, any successor plan to the Plan or any other plan(s), to which liability for provision of the Participant's benefits described below is incurred, shall also be subject to the terms of this Order. Any changes in Plan Administrator, Plan Sponsor or name of the Plan shall not affect Alternate Payee's rights as stipulated under this Order.

All court orders and correspondence should be sent to the Plan Administrator's Agent at the following address:

QDRO Administrator

1 Pension Road

Albuquerque, NM 87102

Attention: Hudson QDRO Compliance Team

The name and address of the Plan Administrator is as follows:

Hudson, Inc.

2 Insurance Road,

Fargo ND 58103

5. Pursuant to State Domestic Relations Law: This Order is entered pursuant to the authority granted in the applicable Domestic Relation Law of the State of **New York**

6. For Provision of Marital Property Rights and/or Spousal Support: This Order relates to the provision of marital property rights to the Alternate Payee as a result of the Order of Divorce between Participant and Alternate Payee.

7. Amount of Alternate Payee's Benefit Based on the "Coverture Approach": This Order assigns to Alternate Payee an amount equal to the actuarial equivalent of **FIFTY PERCENT (50%)** of the Marital Portion of the Participant's Accrued Benefit under the Plan as of the Participant's benefit commencement date, or the Alternate Payee's benefit commencement date, if earlier. The Marital Portion shall be determined by multiplying the Participant's Accrued Benefit by a coverture fraction (less than or equal to 1.0), the numerator of which is the number of months of the Participant's credited service in the Plan earned during the marriage (from June 12,

1982 to March 1, 2011, and the denominator of which is the total number of months of the Participant's credited service in the Plan as of the earlier of his/her date of cessation of benefit accruals or the date that Alternate Payee commences his/her benefits hereunder, if earlier.

8. Commencement Date and Form of Payment to Alternate Payee: The Alternate Payee may elect to commence her benefits under the Plan as of the earliest retirement date on which the Participant is eligible to commence benefits under the Plan. The Alternate Payee may elect to receive her benefits in any one of the allowable benefit options permitted under the terms and provisions of the Plan, other than a Qualified Joint & Survivor Annuity with her current spouse as the beneficiary.

The form of benefit elected by the Alternate Payee is to be based on the life expectancy of such Alternate Payee. Any actuarial adjustment which might be necessary to convert Alternate Payee's benefits to one based on his/her lifetime should be applied to the Alternate Payee's benefits.

Further, should any early commencement reduction be necessary in the event that the Alternate Payee commences his/her benefits prior to Participant's Normal Retirement Date, then such reduction shall be applied to Alternate Payee's benefits based on the Plan's definition of actuarial equivalence, in effect at the time that benefits to the Alternate Payee commence.

In the event of the Participant's early retirement, the Alternate Payee WILL NOT be eligible to receive subsidized early retirement pension benefits from the Plan based on the proportion of benefits awarded to the Alternate Payee in Section 7 above compared to the Participant's gross accrued benefit at the time the subsidy is paid.

9. Death of Participant: In the event the Participant predeceases the Alternate Payee prior

D to receiving his/her assigned share of the benefits as set forth in Section 7, above, the Alternate Payee is entitled to receive the pension benefits set forth in Section 7 of this Order valued as of the date of the Participant's death, paid in the form of a death benefit.

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10. Death of Alternate Payee: In the event the Alternate Payee predeceases the Participant prior to the commencement of her benefits, any unpaid benefits payable to the Alternate Payee shall revert to the Participant (the Alternate Payee may not elect a beneficiary). Should the Alternate Payee predecease the Participant after her benefit commencement date, then such remaining benefits, if any, shall be paid in accordance with the form of benefit elected by such Alternate Payee.

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11. QDRO Regulations: This Order is not intended, and shall not be construed in such a manner as to require the Plan:

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(a) to provide any type or form of benefit option not otherwise provided under the terms of the Plan;
- (b) to require the Plan to provide increased benefits determined on the basis of actuarial value; or
- (c) to require the payment of any benefits to the Alternate Payee that are required to be paid to another alternate payee under another order that was previously deemed to be a QDRO.

12. Certification of Necessary Information: All payments made pursuant to this Order shall be conditioned on the certification by the Alternate Payee and the Participant to the Plan Administrator of such information as the Plan Administrator may reasonably require from such parties to make the necessary calculation of the benefit amounts contained herein.

13. Tax Treatment of Distributions Made Under This Order: For purposes of Sections

402(a)(1) and 72 of the Internal Revenue Code, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal income taxes on such distribution.

14. Continued Jurisdiction: The Court shall retain jurisdiction with respect to this Order to the extent required to maintain its qualified status and the original intent of the parties as stipulated herein.

15. Correcting or Terminating Payments: The Plan will retain any rights it may have under its terms to suspend or terminate payments to Alternate Payee and Participant provided that either Participant or Alternate Payee may contest such suspension or termination through any administration remedies available under the Plan. Payments by the Plan pursuant to this Order will be without prejudice to any right the Plan has under applicable law to seek recoupment or offset for overpayment. If the Plan pays one party a portion of the other party's benefits under the Plan and this Order, the party receiving the overpayment will return that portion to the Plan, which in turn, will pass that portion on to the other Party.

Signed this ____ day of _____, 2017 at White Plains, New York.

ENTER

HON. JORDAN CHANCELLOR
Supreme Court Justice
County of Westchester

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ENTRY OF THE WITHIN ORDER
WITHOUT FURTHER NOTICE
IS HEREBY CONSENTED TO

JAMES LUCKY

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ELIZABETH LUCKY

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STATE OF NEW YORK

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SS.:

COUNTY OF WESTCHESTER

On _____, 2017, before me, the undersigned, a Notary Public, in and for said State, personally appeared **JAMES LUCKY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC

STATE OF NEW YORK

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SS.:

COUNTY OF WESTCHESTER

On _____, 2017, before me, the undersigned, a Notary Public, in and for said State, personally appeared **ELIZABETH LUCKY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC