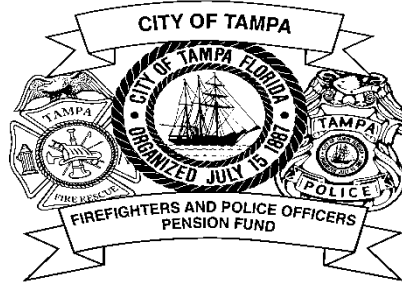


**CITY PENSION FUND FOR
FIREFIGHTERS AND POLICE OFFICERS
IN THE CITY OF TAMPA**

**Mark Bogush
Chairman**

**Richard Griner
Vice Chairman**



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To: Whom It May Concern

From: Tampa Fire & Police Pension Fund

Re: Court Ordered Payments as a Result of Martial Separation

The following draft order has been prepared by the Fund for use in dissolution of marriage (divorce) cases where property rights in accrued pension benefits are divided by agreement or court order. The Fund has the ability to pay child support and alimony directly to a former spouse or to the Florida State Disbursement Unit as provided by Chapter 61, Florida Statutes.

That same chapter of Florida Statutes makes accrued pension benefits “marital property” which courts may divide among divorcing parties. Public employee pension plans, such as the Tampa Fire and Police Pension fund, cannot honor a qualified domestic relations order or QDRO because of an absence of statutory authority. The courts have held, however, that they have the authority to fashion an order to ensure the distribution of marital property.

The attached draft order is appropriate for use in dissolution of marriage proceeding to address division of spousal rights in Fund benefits. Essentially, the order requires a member and former spouse to establish a joint account which will receive the pension benefits when paid, and the financial institution will distribute the relative shares. Because the Fund is paying the member directly, the issue of paying a non-member directly has been eliminated. Variations of this draft order are in common use by many Florida public employee pension funds.

The IRS treats alimony and property division differently. Generally, alimony is income to the former spouse and property settlements are income to the member. Because different specific circumstances may alter that result, members are strongly advised to seek the assistance of a qualified tax advisor.

The Fund does not give legal or tax advice. Members are advised to seek the services of a family law attorney for all matters related to dissolution of marriage.

IN THE CIRCUIT COURT OF THE _____
JUDICIAL CIRCUIT IN AND FOR _____
_____ COUNTY, FLORIDA

CASE NO.:

IN RE: The Marriage of

Petitioner,

and

Respondent

**ORDER DISTRIBUTING MARITAL INTERESTS
IN A PUBLIC EMPLOYEE RETIREMENT PLAN**

THIS CAUSE came before the Court on the Petition for Dissolution of Marriage of _____, Petitioner and _____, Respondent. The parties have agreed to equitable distribution of the retirement benefits otherwise payable to the party who is a Plan Member from the City of Tampa Firefighters and Police Officers Pension Fund. The other party shall be referred to as the former spouse, whether or not the former spouse is also a member of the Plan. The Court approves said settlement agreement and incorporates the terms of same in this Order. To effectuate the terms of that agreement, the Court does hereby

ORDER AND ADJUDGE:

1. Creation of the Account: The Member, shall, upon retirement from the City of Tampa under the terms of the Fund, cause a trust account to be opened in the joint names of the

Member and the former spouse at the following financial institution: _____

The parties shall jointly bear the cost of the trust account. The parties may, by mutual consent, and without further order of the Court, change the financial institution with advance written notice to the Fund.

2. Single Transaction to the Account: Upon separation from service with the City of Tampa and upon application and approval for retirement benefits, the Member shall direct the Board of Trustees of the City of Tampa Firefighters and Police Officers Pension Fund to cause the entire monthly retirement check to be direct deposited in the trust account established under paragraph 1 of this Order. The deposit of the benefit payments described in this Order to the joint account required by this Order shall be a full and complete discharge of the Fund's obligations under this order.

3. Distribution of Shares: The trustee of the joint account shall be directed to distribute the monthly retirement check by sending \$_____ of the monthly benefit to the former spouse and of the balance of the monthly benefit to the Member, calculated as of the date the marriage was dissolved and payable once the Member enters pay status with the Fund, following separation from service. To the extent any other provisions of this order result in a changed amount to the former spouse, the Fund shall notify the financial institution

accordingly and the former spouse's amount shall be adjusted without further order of the court.

4. Cost-of-Living Adjustment (COLA) Benefit: Any cost of living adjustment (COLA) applicable to the benefit, authorized subsequent to the dissolution of marriage, shall be paid entirely to the Member. The parties acknowledge and the Court orders that such payment is approved, even if over time a COLA payment would result in the Member having a larger monthly payment.

5. Thirteenth (13th) Check Benefit: Unless otherwise agreed by the parties, any 13th Check Benefit authorized subsequent to the dissolution of marriage shall be paid entirely to the Member.

6. Deferred Retirement Option Plan (DROP): Except as otherwise agreed by the parties, upon the Member's separation from service, the Member shall complete all required forms with the City of Tampa Firefighters and Police Officers Pension Fund to enable the former spouse to receive \$_____ per month, including any rate of return and administrative costs attributable thereto, for the duration of the Member's participation in DROP, if applicable. A single lump sum payment for the former spouse's marital portion will be distributed from the Member's DROP account in accordance with the Fund's policies and procedures on DROP distributions. As of the date of this order, Florida law does not provide for direct payment from a public employee pension plan to a former spouse of a member for

equitable distribution of marital property. If payment is by lump sum distribution, payment will be made to the joint account referred to in paragraph 1. Alternatively, the parties may, by mutual agreement, provide for the rollover of the Member's entire DROP to an individual retirement account (IRA) or other qualified plan, including but not limited to a Section 457 Deferred Compensation Account, in the name of the Member, provided that said IRA or plan is capable of making an immediate plan-to-plan transfer of the former spouse's share of the DROP account to an IRA in the name of the former spouse. The Court specifically reserves jurisdiction to enforce the provisions of this section.

7. Survivorship: Nothing in this Order shall authorize the receipt by the former spouse of any survivorship or other benefits which are not otherwise authorized under the provisions of the general Florida Statutes relating to municipal pensions, or the special acts of the legislature comprising the City of Tampa Firefighters and Police Officers Pension Fund. To the extent permitted by law, the Member may designate the former spouse as the beneficiary in any form of benefit chosen which provides for a survivorship component.

8. Compliance with the Law Governing the Plan: Nothing in this Order shall be construed to require either the payment of a retirement benefit to any person who is not otherwise authorized by law to receive such payment or the payment of any benefit not permitted by the laws governing the Pension Fund.

9. Payment as A Complete Discharge of Liability: The payment of benefits under this Order to the account designated shall act as a full and complete discharge of all obligations of the Pension Fund to the Member and the former spouse.

10. Reservation of Jurisdiction: The Court reserves jurisdiction to determine compliance with the provisions of this Order and to make such modifications as may be necessary to accomplish the intent and purpose of this Order.

DONE AND ORDERED in Chambers at _____,
_____ County, Florida, this _____ day
of _____, 20_____.

CIRCUIT COURT JUDGE

Copies furnished to:
Counsel for Petitioner
Counsel for Respondent
Counsel for Tampa Fire and Police Pension Fund