COMMONWEALTH OF MASSACHUSETS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

ESSEX DIVISION **DOCKET NO. 89D2178**

DANIEL J. MANSUR,	)
Executor of the Estate of	)
GEORGE R. VINAL,	)
Plaintiff	)
	)
v.	)
	)
FLORENCE B. VINAL,	)
Defendant.	)

MEMORANDUM OF DECISION
ON AMENDED COMPLAINT FOR MODIFICATION FILED SEPTEMBER 12, 2000

The Plaintiff, Estate of George R. Vinal (hereinafter “father" or “estate") brought this Amended Complaint for Modification against the Defendant, Florence B. Vinal (hereinafter "mother"), seeking to modify certain provisions of a surviving separation agreement that was incorporated and not merged into a Modification Judgment on January 13, 1991. This agreement was again modified by stipulation of the parties that was incorporated and merged into a Judgment on Complaint for Contempt on June 28, 1996. Specifically, the estate requested that the father be relieved of child support, life insurance, and college tuition obligations as of May 1999 since, according to the estate, the son was emancipated as of that date because he was no longer engaged in a full-time continuous course of college study.

The parties requested that the Judgment include a declaration as to the rights and obligations of the parties regarding child support, college education, and life insurance.

Trial was held on November 17, 2000, and February 16, 2001. Attorney Harriet Schechter appeared on behalf of the father's estate and Attorney Linda O'Connell appeared on behalf of the

mother, who was also present. Both parties presented testimony directly and through witnesses. Upon review of all credible direct and documentary evidence. the following Procedural History, Findings of Fact, Memorandum of Decision, and Judgment are hereby made.

I. RELEVANT PROCEDURAL AND FACTUAL HISTORY

The father and mother were married on or about May 5, 1974. The only child of this marriage, George R. Vinal. Jr (hereinafter .'the son," "the child" or "JR"), was born on November 20, 1976. JR is presently twenty-four years old. In 1982, the mother and father divorced in the State of New Hampshire (Belknap Superior Court, Docket No. M81-220). After the couple was granted a divorce, the father and mother entered into a surviving separation agreement covering alimony, child support. health insurance, and life insurance. The agreement was incorporated and not merged into a Modification Judgment of the Court on January 14, 1991 (Shaevel. J.)(Docket No. 89D 2178-FMl). The parties entered into a second agreement that was incorporated and merged into a judgment on Complaint for Contempt that was entered on June 28, 1996 (Rockett, J .).

The pertinent terms of the first surviving agreement provided that the father would pay child support in the amount of four hundred dollars per week. The parties also agreed that JR should be afforded the advantage of post-secondary education as was appropriate for his interests, aptitudes, and abilities. To that end, the father agreed to pay for JR's post-secondary education including tuition, room and board (provided JR resided in a dormitory or other college or university supplied housing), books, and other expenses listed on the university bill so long as the child was engaged in a full-time continuous course of study. The mother agreed to pay for all other expenses that related to JR 's post-secondary education. Lastly, to secure the father's child support and college payment obligations, the father agreed to maintain a life insurance policy in the amount of three hundred and twenty-five thousand dollars which named JR as the beneficiary.

The father's obligations, including his obligation to pay for child support, education payments, and to maintain a life insurance policy, were scheduled to terminate upon JR's emancipation. According to the agreement, JR's emancipation was defined, *inter alia*, as December 31, 1999, if he attended a post-secondary accredited college or university as a full-time student engaged in a continuous course of study.

The relevant terms of the second agreement provided that the mother would change the billing address for Boston University tuition bills so the father would receive them in a timely manner, the father would take all steps necessary to remove a third-party as a co-signor on a Mass

Plan loan, the father would pay the housing deposit and book bills upon receipt of documentation, and, as to child support, that in the event the father paid room and board for the son, the father's child support obligation during the academic year would be reduced to two hundred and fifty dollars per week.[1]

On June 18, 1999, the father filed a Complaint for Modification seeking to terminate his obligation to pay child support, college expenses, and life insurance. He claimed that he had been diagnosed with cancer in February 1998 and had been unable to work since April 1998. Accordingly, his business began to fail. The father also claimed that JR's class had graduated from college, that the father had paid for four years of continuous course study, and asserted that these events constituted changes in circumstances so as to warrant a modification of the agreement.

On July 9, 1999, the mother filed a Complaint for Contempt against the father alleging that the father failed to make three child support payments in May, four payments in June, and two payments in the month of July. The mother also filed a Motion for Short Order of Notice which was a11owed. Hearing on the Complaint for Contempt was scheduled for July 20, 1999.

On July 20, 1999, the mother and father appeared before the court (Stevens, J.) on the mother's Complaint for Contempt filed on July 9, 1999 and the father's Motion to Terminate Child Support; Insurance, and College Obligations filed on May 5, 1999. The mother appeared *pro se*; the father was present and represented by Attorney Schechter. The Court (Stevens, J.) found that since JR had failed or received incomplete grades in a number of courses during his junior and senior year at Boston University. JR, then age twenty-two (22), was no longer a full-time student engaged in a continuous course of study. Accordingly, the Court entered an Order which provided that the father's obligation to pay child support, college tuition, and to maintain a. life insurance policy were terminated as of the date JR would have graduated from Boston University in May of 1999. Except as modified, all prior orders of the Court were ratified and confirmed. The Court also found the father not guilty on the mother's Complaint for Contempt.

After the father was relieved of his child support, college tuition payment, and life insurance obligations, the father changed the beneficiary designation on the life insurance policy in favor of his second wife and a friend.

On or about August 24, 1999, the mother filed a Notice of Appeal from the Court’s Order

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[1] Any reference to the agreement shall relate to the agreement *in toto* as modified.

dated July 20,1999. The mother subsequently indicated that she intended to dismiss the appeal and on September 14, 1999, the Court (Stevens, J,) allowed the father's Motion to Dismiss the appeal.

On December 23, 1999, the father died.

On July 10, 2000, the mother filed a Motion for Relief from Judgment Pursuant to Rule 60(b). On August 18, 2000, the Court (Stevens, J.) issued an Order after hearing which granted the mother's Motion in part upon the following terms and conditions which were to be regarded as orders of the Court: 1) the Order of July 20, 1999 entitled "Order on Motion to Terminate Child Support, Insurance. and College Obligations filed May 5, 1999" was incorporated into the Judgment of Contempt of even date; 2) notwithstanding the foregoing, the Order entitled "Order on Motion to Terminate Child Support, Insurance, and College Obligations filed May 5, 1999" was not a final disposition of the issues set forth in the Complaint for Modification by the father dated June 16, 1999 and filed on June 18, 1999; and 3) inasmuch as neither party had an opportunity for a full evidentiary hearing on July 20, 1999, the Complaint for Modification filed by the father on June 18, 1999 was scheduled for a three hour hearing on November 17, 2000. The Order also addressed specific trial related and procedural issues.

On September 12, 2000, the father's estate filed an Amended Complaint for Modification seeking to modify the terms of the Modification Judgment that pertained to child support, college expenses, and life insurance. The estate claimed that JR became emancipated on or before June 1 , 1999 when he was no longer engaged in a full-time continuous course of study. Accordingly, the estate requested that the father's child support, education payments, and life insurance obligations be terminated as of May 30, 1999. On September 26, 2000, the mother fi1ed an Answer to Complaint for Modification. The parties also filed a stipulation with the Court which provided that within the scope of the father's Amended Complaint for Modification was a request for a declaratory judgment as to the rights and obligations of the parties as to child support, college education, and life insurance.

II. FINDINGS OF FACT AND DISCUSSION

JR enrolled at Boston University as an undergraduate student with the consent of both parents in the £all of 1995. During the summer of 1997, after completing two years at the Boston University College of General Studies, JR transferred to the Boston University College of Arts and Sciences. At the time of the transfer to the College of Arts and Sciences, JR declared a double major in Political Science and Philosophy/Psychology, The transfer approval, signed by JR and approved by

Boston University, provided that JR's month and year of expected graduation was May 1999 (Exhibit 19).

The mother testified, and I so find, that JR was enrolled in a four year program at Boston University and was scheduled to graduate in May 1999. In the four semesters at the College of Arts and Sciences from the fall of 1997, through the spring of 1999, JR took nineteen courses. He failed five of those courses, withdrew from one other course for which he received no credit, and received two Ds. Although the mother notified the father when JR made the Dean's List during his first two years at Boston University College of Genera1 Studies, neither she nor JR informed the father of JR 's deficient academic performance at the College of Arts and Sciences. She did not notify the father when JR failed courses during hs last two years at Boston University.

JR received academic warnings in June 1998 and February 1999. The first such warning was sent to him at the mother's home with a copy to the mother .The second was sent to JR's apartment with a copy to the mother. The father did not receive a copy of either academic warning.

JR did not complete his foreign language requirement and mathematics requirement, both of which were necessary to graduate despite the fact that such courses were offered each semester that he was in school.

In Apri1 1999, JR had a telephone conversation with the father. He told the father that he needed three classes for graduation, that he would participate in the graduation ceremony in May 1997, and would be able to finish his academic work for his diploma during the summer of 1997. Contrary to what he told his father, JR knew in April 1999 that he needed more than three courses to finish his program and that he could not graduate in September as he had related.

In May 1999, JR completed a graduation application for Boston University which indicated that he would graduate in May 1999. He knew at that time that he would not graduate in May 1999, and still needed eleven courses to graduate.

JR had no medical conditions that interfered with his ability to perform academically during his final two years at Boston University. During the time that JR was receiving poor grades, he was not attending some of his classes.

JR 's academic records were not sent to the father by JR or the mother. The records were only obtained from Boston University by subpoena as part of this litigation

In 1997, the father endeavored to obtain copies of the statements for services from Boston University. The college informed the father that such statements could not be released without the student's approval. JR did not grant that approval. The father was only able to obtain the statements from Boston University as a result of his attorney's subpoena to the college.

The billing statements from Boston University that were sent to the mother included charges for appliance rentals, sports pass, student fees, convenience point plans, and an optional dining plan, none of which were the father's obligation under the agreement. Neither the mother nor JR furnished the father with copies of the bills nor advised him of the charges included on the bill for which he was not responsible. As a result the father paid for all such additional charges.

JR received three refunds from Boston University, in October 1996, and Ma.rch 1997 .One refund was for one thousand sixty-six dollars and fifty cents ($1,066.50), one was for two thousand two hundred fifty-six dollars and fifty cents {$2,256.50) and the third was for an unspecified amount. All refunds pertained to monies paid by the father to Boston University. JR never disclosed to the father that he had received the refunds, but rather delivered the money to the mother, The mother did not disclose to the father that the monies had been refunded. The mother also told JR to send the three checks from Boston University to her rather than reimbursing the father.

Although JR might have been eligible for financial aid during college, neither he nor the mother made any effort to pursue financial aid thereby potentially decreasing the father's monetary obligation for college. The father paid all amounts he was obligated to pay under the agreement to Boston University for the four years that JR was enrolled from the fall of 1995 through the spring of 1999.

The mother testified at trial that in May 1999 that she thought the father was well and was recuperating from an unknown illness. However, she later testified that earlier pleadings had disclosed to her that the father had cancer. She: also acknowledged that she was told by the father's attorney in November 1998, that the father was in remission.

When the mother and father were before this Court on July 20, 1999 on the father's efforts to terminate any further obligation to pay for JR' s education or to maintain life insurance, the mother testified that JR had been ill. At trial, the mother denied that she had testified earlier that JR was ill. When confronted with the transcript of the earlier hearing, she acknowledged that she did so testify and that JR was not, in fact, ill.

A portion or JR's education expenses for the first year at Boston University was funded by a loan from the Massachusetts Educational Financing Authority. That loan has not been repaid and has a balance as of February 16, 2001 of twenty-nine thousand six hundred sixty dollars and eighty-two cents ($29,660.82). The father's estate is responsible for this payment together with any interest which has accrued since February 3, 2001 inasmuch as the loan was for an obligation of the father during JR's first year of college.

1. MODIFICATION OF SURVIVING AGREEMENT

The initial inquiry pertains to the applicable standard relevant to a complaint for modification that seeks to alter child related provisions of a surviving separation agreement. When divorcing spouses intend for a separation agreement to remain as an independent contract, substantial deference must be afforded to such an agreement. This deference, however, is not absolute. General Laws chapter 208 section 1A provides the probate court with the jurisdiction to modify such agreements when necessary. G.L. c. 208, § lA; *Stansel v. Stansel,* 385 Mass. 510, 512 (1981). In order to modify the terms of a surviving agreement, the party seeking modification must establish "countervailing equities," or "something more than a material change in circumstances." *Knox v. Remmick,* 371 Mass. 433 (1976); *DeCristofaro v. DeCristofaro,* 24 Mass.App.Ct. 231, 235-236 {1987); *see also McCarthy v. McCarthy,* 36 Mass.App.Ct. 490, 490 (1994); *Stansel v. Stansel,* 385 Mass. 510, 515 (1982); *Ames v. Perry,* 406 Mass. 236, 239-243 (1989); *Broome v. Broome,* 43 Mass.App.Ct. 539, 544 (1991); *citing Larson v. Larson,* 37 Mass.App.Ct. 106, 108 (1994).

The countervailing equities standard has generally been applied to cases involving spousal support where one party's economic situation has deteriorated to the extent that he or she may become a public charge. *Knox v. Remmick,* 371 Mass. 433, 437 (1976); *see also Cournoyer v. Cournoyer* 40 Mass.App.Ct. 302, 306 (1996) (this standard also has been interpreted to include the situation where the spouse seeking modification or the spouse attempting to use the separation agreement as a bar to modification has failed or refused to comply with the agreement).

Modification of surviving child support provisions "stands on different footing," than a modification of spousal support provisions. *Knox v. Remmick,* 371 Mass. 433, 437 (1976). When the complaint for modification seeks to alter terms of a surviving agreement pertaining to children, the court is armed with greater discretion to effect a modification. General Laws chapter 208, section 28 provides, for instance, that notwithstanding a surviving agreement between the parents, the court may modify child support provisions in accord with the child support guidelines. General Laws chapter 119A, section 1 has also served to significantly vitiate the effect of child related

provisions in surviving separation agreements. *See* G.L. c. 119A, § 13, and G.L. c. 209, § 37. Moreover, a “weighty equity" that bears heavily upon the inquiry relating to the modification of surviving child related provisions is the fact that a child is the subject of those provisions and that the child was not a party to the surviving contract between the parents. *Ames v. Perry*, 406 Mass. 236, 241 (1989).

In accordance with the foregoing, several factors and circumstances independently satisfy the more rigorous standard applicable to surviving separation agreements, and, therefore, constitute something more than a material change in circumstances to support modification of the surviving separation agreement: 1) the son’s volitional and deficient academic performance which has resulted in his failure to engage in a full-time continuous course of college study, 2) the son's deceptive conduct in withholding information from his father concerning his grades and graduation requirements, 3) the mother's deception in wrongfully retaining the tuition reimbursement checks contrary to the parties' agreement, and 4) the mother's breach of the covenants of good faith and fair dealing under the surviving separation agreement. These circumstances in totality rise to the level of something more than a material change in circumstances.

The son quite clearly had the aptitude to attend college and performed fairly well while attending the College of General Studies. Neither the son nor the mother was able to adequately explain the precipitous drop in the son's academic performance beginning in his junior year. But for the son's above average grade point average that was achieved while in the College of General Studies, the son would likely have been placed on academic probation and may very well have been suspended or expelled from the University. That the son chose to pursue a double major, allowed his course work to fall so far behind, and failed several required courses is the son's responsibility; the father need not bear the economic burden of his son's deficient academic performance. With the father's obligation to pay for academic expenses is a concomitant obligation on the son to use his best efforts to succeed and to maintain such minimum standards.

Not only did JR's academic performance fall well short of what reasonably must be required of college students when a parent is obligated to pay for that education, but the son also engaged in a campaign of deception against his father by withholding information concerning his grades and graduation requirements. His conduct in this regard may have been perpetrated with a mind toward prolonging his college studies for as long as possible in order to needlessly extend the father's child support obligations. It is clear that the son's protracted college career may have been linked in some degree to the fact that the father was dying of cancer. For as long as the father was obligated to pay child support and education payments, he was also obligated to maintain a sizeable life insurance

po1icy to secure those obligations. Moreover, in bad faith the son also colluded with his mother by failing to notify the father of the tuition refunds that were due to the father under the agreement. The son's conduct in these respects clearly rises to the level of a countervailing inequity and must not be rewarded by a strict interpretation or specific enforcement of the parents' agreement.

"[C]ountervailing equities, has been interpreted to include the situation where the party attempting to use the surviving agreement as a bar to modification has not complied with provisions of the agreement." *Cournoyer v. Cournoyer*, 40 Mass.App.Ct. 302, 306 (1996); *quoting Knox v. Remmick*, 371 Mass. 433, 437 (1976); see *Stansel v. Stansel*, 385 Mass. 510, 515-516 (1982). In this case, the mother and son engaged in a pattern of deception by knowingly and wrongfully retaining three tuition refund checks from Boston University that were due to the father pursuant to the parties' agreement. No adequate excuses were presented to mitigate against the mother's failure to comply with the agreement. Consistent with *Cournoyer*, the mother cannot shield herself with the separation agreement when she herself has corrupted it by divesting the father of his expectations under the contract. See *Anthony's Pier Four, Inc, v. HBC Assocs*. 4l1 Mass. 451 (1991). Accordingly, the father's obligations of chi1d support, tuition payment. and life insurance are terminated on this basis as of the date the son's class graduated from Boston University in May 1999.

2. EQUITY AND CONTRACT

In the alternative, and, in the absence of modification of the agreement on the basis of countervailing equities, the father's obligations for the payment of college tuition, support, and life insurance must nevertheless be deemed to end in May of 1999 on the basis of the son's failure to engage in a continuous course of study and as a result of the mother and son's breach of the duties of good faith and fair dealing.

Although the parties did not specify that the father's child support obligations would be contingent upon JR maintaining minimum academic standards while in college, it would be inequitable and unreasonable to obligate a parent to pay for a child's college education without a concomitant obligation on the child to use his best efforts while in college and in spite of that child's poor academic aptitude or phlegmatic approach to learning. Since "[surviving separation agreements] are to be construed in accordance with justice and common sense and the probable intention of the parties," *Whelan v. Frisbee*, 29 Mass.App.Ct. 76, 80 (1990) [citations omitted], in the absence of specific contractual language to the contrary, it is reasonable to require that a parent's obligation to pay for a child's education is accompanied by a concomitant obligation on the child to maintain a passing grade point average. Despite the dearth of case law on this particular issue in the

Commonwealth of Massachusetts, this position is in accord with the decisions of other jurisdictions.

In *Bearden v. Bearden*, the Supreme Court of South Carolina held that a father's obligation to pay for his child's college education was accompanied by an companion obligation on the child, "to apply himself to his college education." *Bearden v. Bearden*, 252 S.E:2d 128, 130-131 (S.C, 1979). Since the father paid for his son's college education until it was established that the son was not performing acceptable college level work, the father was "justified in refusing to spend any additional sums," for the son's education. *Id*. at 131; see also *Zakarin v Zakarin*, 565 So.2d 790, 793 (Fla. Cir. Ct. 1990) (the obligation to contribute toward a child's college education until the child turns twenty-one may be enforced when the child is "deserving and scholastically capable"); *Limpert v. Limpert*, 292 A.2d 38 (N.J. Super. Ct. App. Div. 1972) (expense of college education has been included as part of child support where child showed scholastic aptitude); *Filippone v. Lee*, 700 A.2d 384, 389 (N J. Super. Ct. App. Div. 1997) (minor who, while residing outside parental home, enrolled in post-secondary educational program, failed all classes during spring semester of his first year, and did not return to school for fall semester, was emancipated as of the end of spring semester, for purpose of calculating non-custodial parent's child support obligation). "The now prevailing school of thought is that whether a parent should be required to provide a college education to an adult child will turn on the facts and circumstances of each case. Factors general1y considered, not exclusively, are the child's age, aptitude and desire, whether the parents attended college, and the financial ability of the parents to pay." *Zakarin*, 565 So.2d at 792.

In *Kent v. Kent*, the Court of Civil Appeals of Alabama, considered several factors in determining whether a parent might be ordered to pay for a child's college education. *Kent v. Kent*, 587 So.2d 409, 411 (Ala. Civ. App. 1991). In addition to analyzing the parents' resources. the court indicated that it must also, "consider the child's commitment to, and aptitude for, the requested education." *Id.* The court further defined "aptitude" as an ability to understand the course work and to maintain at least average grades. *Id*. The court was also directed to consider the general relationship between the child and parent and the parent's involvement in the child's college. *Id*. at 412. The child in *Kent* obtained average grades in high school which, "evidenced an aptitude for a college education." *Id*. The child then enrolled in a community college where he dropped one course and earned a low C average after his first quarter .*Id*. The court concluded, "[a]lthough we find that the father currently has the wherewithal to assist in some manner in his son's college education, the son has demonstrated only marginal commitment and aptitude for college after one quarter…" *Id*. at 412-413.

Since JR failed, withdrew, or received incomplete grades in at least eight courses, he was no

longer engaged in a continuous course of college study. In accord with the position of the aforementioned jurisdictions, JR failed to demonstrate any commitment to college. The facts of the instant case, when applied to the standards enunciated in the foregoing cases, establish that JR was not willing to perform college level work and that his father should be relieved of child support and tuition payments. To conclude otherwise would result in an incredible financial burden on the father and would result in a waste of the father's financial resources.

As a matter of equity and fairness it is reasonable to apply a concomitant obligation on the child to maintain average grades in college when the parent is obligated to pay for the child's tuition, and, since the son was unwilling to maintain such basic academic standards, the obligation to pay college tuition, child support, and 1ife insurance ceased when JR became emancipated; the day when JR was capable of graduating with his class in May of 1999. The mother and son's deceptive and misleading conduct also support the denial of specific enforcement of the separation agreement.

"Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement." Restatement (Second) of Contracts § 205 (1919); *Anthony 's Pier Four, Inc. v. HBC Assocs.*, 411 Mass. 451, 473 (1991). These covenants also apply in the context of separation agreements. *Larson v. Larson,* 37 Mass.App.Ct. 106, 110(1994} "At the heart of [the covenant of good faith and fair dealing] is the mutual understanding 'that neither party shall do anything that will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract.'" *Id. quoting Anthony 's Pier Four, Inc. v. HBC Assocs*., 411 Mass. 451, 471-472 (1976).

In this instance, the mother's conduct in secretly withholding the tuition refunds that were owed to the father was a violation of the mother's covenant of good faith and fair dealing. The son also participated in this scheme by forwarding these checks to the mother's residence despite his knowledge that the father paid for his tuition. "That decision deprived the [father] of [his] reasonably anticipated fruits of the separation agreement and amounts to an 'evasion of the spirit of the bargain.'" *Larson,* 37 Mass.App,Ct. at 110; *quoting* Restatement (Second) of Contracts § 205 commend d (1981). Additionally, the mother lied to the father concerning JR's academic performance and also failed to change the billing address with Boston University so the father might receive the tuition bills in a timely manner contrary to the agreement of the parties which was incorporated and merged into a Judgment On Complaint for Contempt entered on June 28, 1996 (Rockett, J.) Due to the mother and son's deception and bad faith and resulting breaches of the covenants of good faith and fair dealing, the agreement must not be specifically enforced and the father's obligation to maintain life insurance, to pay child support and to make college tuition

payments must be terminated as of the date JR' s class graduated from college in May of 1999.

The countervailing equities described *supra*., which include the son's deficient academic performance and failure to devote himself to a full-time continuous course of academic study all with the mother's knowledge, his and his mother's deceptive conduct in withholding grades and graduation requirements from his father, the mother's bad faith and wrongful retention of the father's tuition refunds and breach of the covenants of good faith and fair dealing, individually support modification of the surviving agreement so as to relieve the father of child support, education, and life insurance obligations as of the date the son's class graduated. Alternatively, even if modification were not warranted, as a matter of equity and due to the mother and son's breach of good faith and fair dealing, the Court will not enforce whatever contractual rights the mother and JR might arguably have for the payment of college expenses and maintenance of life insurance after May 1999.

Date: March 26, 2001
Nunc pro tunc to July 20, 1999

John C. Stevens, III, First Justice
Essex Probate and Family Court

COMMONWEALTH OF MASSACHUSE1TS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

ESSEX DIVISION **DOCKET NO.890 2178**

DANEL J. MANSUR,
Executor of the Estate or
GEORGE R. VINAL,
Plaintiff

v.

FLORENCE B. VINAL,
Defendant

JUDGMENT ON AMENDED COMPLAINT FOR MODIFICATION
FILED SEPTEMBER 12, 2000

1 The Judgment of Modification Dated January 13, 1991 obligating the George R. Vinal and his estate to pay child support in the amount of four hundred dollars per week, pay college tuition, room and board, and related college expenses on the university bill, and to maintain a life insurance policy for the benefit of George R. Vinal, Jr. and Judgment on Complaint for Contempt Dated June 28, 1996 obligating George R. Vinal and his estate to pay child support in the amount of two hundred and fifty dollars per week during the academic year are modified to provide that those obligations are terminated effective as of the date in May 1999 when George R. Vinal Jr.'s class graduated from Boston University
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2. George R. Vinal was no longer obligated to furnish life insurance for the benefit of either George R. Vina1. Jr. or Florence Vinal after May 1999. Thereafter, George R. Vina1 was free to designate any beneficiaries he may have chosen for any life insurance on his life.

3. The estate of George R Vinal shall forthwith pay to the Massachusetts Educational Financing Authority $29.660.82 together with any interest and late charges accruing since February 3, 2001 as repayment for an educational loan the proceeds of which were used for

education payments for George R. Vinal. Jr. Neither Florence B. Vinal nor George R. Vinal Jr. shall have any obligation to repay that loan.

Except as modified herein, all prior orders of the Court are ratified and confirmed.

Date: March 26, 2001
Nunc pro tunc to July 20. 1999

John C. Stevens, III, First Justice
Essex Probate and Family Court