



## Millions up for grabs in Scaife divorce fight

Sunday, September 16, 2007

By Dennis B. Roddy, Pittsburgh Post-Gazette

The divorce case titled Scaife v. Scaife has wound its way through the courts under a blanket of secrecy as both sides struggle over a storied Pittsburgh fortune surpassing \$1.4 billion and a temporary monthly alimony payment bigger than the life savings of most people.

Margaret Ritchie Battle Scaife, 60, and her husband, Mellon banking and oil heir Richard Mellon Scaife, 75, have been unable to agree on support payments, whether one of his newspapers is a hobby or a business investment, and even the date of their separation. She says they split in December 2005, after she caught him in an affair. He says they separated 10 months earlier.

Details of the dispute have remained out of the public eye for more than a year. Lawyers for Mr. Scaife, a reclusive financier of the political right who underwrote much of the campaign against the Clinton administration in the 1990s, asked Allegheny County Judge Alan Hertzberg to seal the record of his divorce. The judge complied.

The marriage of Richard and "Ritchie" Scaife, as she preferred to call herself, was Mr. Scaife's second. The couple had been together since the early '80s while Mr. Scaife was still married to his first wife, the former Frances Gilmore. In the course of the next 14 years, Ritchie Scaife would serve on the board of Mr. Scaife's publishing company, sometimes exercising influence in its editorial judgments, and once sat alongside him during a rare interview he granted in the midst of the Clinton investigations. All the while, she was living in a Shadyside house of her own two blocks from the Westminster Place mansion occupied by Mr. Scaife.

Copies of the Scaife case file obtained by the Post-Gazette illuminate a dispute that could set a new record for a divorce settlement. The couple did not have a prenuptial agreement. The case file, though ostensibly sealed by the court, was readily available online from the Web site housing Allegheny County court records over a period of several days at the end of last month.

A court hearing officer ordered Mr. Scaife to pay his estranged wife \$725,000 a month in preliminary temporary support shortly after she filed for divorce early last year. The amount was derived from a standing formula in the law that places temporary support at 40 percent of a husband's income.

It appears, based on an order filed Aug. 28 by Judge Hertzberg, that hearing officer Patricia Miller has entered a recommendation for how much Mrs. Scaife should receive in the longer term, but no order implementing those recommendations appears in the court docket. Attorneys for both sides have requested permission to file briefs outlining their objections to

the recommendation, and Judge Hertzberg granted them permission to exceed the court's usual 10-page limit. The briefs are due Thursday.

### **Record award possible**

The monthly award could set a new Pennsylvania record for a temporary support order, according to Albert Momjian, a prominent divorce attorney in Philadelphia who has handled celebrity divorces and who said he held the previous record for a temporary alimony order at \$275,000 per month. Generally, alimony is treated as taxable income for the spouse who receives it and tax-deductible for the spouse who pays it.

"I can't conceive of any alimony amount that would be that large," Mr. Momjian said of the Scaife case. "That's gigantic. We thought that what we got here was terrific."

The case could also affect the fortunes of Mr. Scaife's publishing enterprise, notably the Pittsburgh Tribune-Review, which, records filed with the divorce papers show, he has subsidized with more than \$140 million -- Mrs. Scaife's lawyers contend the figure is \$244 million -- from one of his trust funds over the past 15 years, and which has lost between \$20 million and \$30 million yearly since it was started in 1992.

"The most remarkable feature of the relevant and material issues of consequence in this case is the number of zeroes after Mr. Scaife's disposable income," wrote Mrs. Scaife's lawyers Gary Gentile and William Pietragallo II in a pretrial statement filed Oct. 23. They put his monthly income on earnings from nine various trusts at \$3.9 million.

"Incredibly, this fantasia of monthly distributions is taxed at an aggregate rate of slightly less than 15 percent," they write.

None of Mr. Scaife's filings address the tax rate assertion. although financial documents filed in pleadings over alimony make clear that Mr. Scaife has employed a number of strategies -- notably, a \$122 million Charitable Remainder Uni-Trust for which he took a tax write-off and from which he is permitted to draw 8 percent of the principal annually -- to reduce his tax liabilities.

To date, Mr. Scaife's lawyers have worked to seek a reduction in the temporary support order, called alimony pendente lite.

"Wife cannot possibly expend the guideline amount of support no matter how lavishly she chooses to live," Mr. Scaife's lawyers wrote last November, "and indeed under the current interim award, based on the guidelines, she has been accumulating enormous sums of cash each month -- sums that are themselves becoming a substantial source of income."

They suggest that, through "blind" application of court guidelines that set temporary support at a fixed percentage of the paying spouse's monthly income, the court is actually redistributing Mr. Scaife's property.

As the support case plodded through court, Mr. Scaife formally filed for divorce on Feb. 8, setting the stage for a titanic battle over a storied fortune.

Both Mr. Gentile, a lead attorney for Mrs. Scaife, and Mr. Scaife's attorney, H. Yale Gutnick, declined all comment on the case, citing the order sealing the file.

"It's highly confidential and we're not really prepared to talk about it at this point. I don't

think anybody will," Mr. Gutnick said.

### **A trespass arrest**

The Scaifes' marital troubles first gained public attention on Dec. 22, 2005, with what Mrs. Scaife's lawyers characterize in their brief as "cruel, calculated acts toward Wife by Husband as punishment for her detection" of Mr. Scaife's alleged affair.

"On December 22nd in the late afternoon, Wife, in an attempt to confirm Husband's ongoing affair, appeared at the home of her Husband, peered in his residence window to confirm" whether the other woman was with Mr. Scaife. "Wife was arrested under an absurd trespass charge, handcuffed and transported to the County Jail, where she was incarcerated overnight in a grim holding cell," Mrs. Scaife's attorneys wrote. The charges were later dismissed but, in the words of Mrs. Scaife's brief, "The marriage was over!"

The marriage may have ended in Mrs. Scaife's view, but not the fighting.

Five months after her first arrest, Mrs. Scaife was again charged, this time after a street fight outside her husband's home when she confronted and physically battled three of Mr. Scaife's employees.

At issue was a yellow Labrador retriever named Beauregard. She insisted the dog belonged to her. Mr. Scaife has argued that she gave the dog to him as a gift.

When the confrontation was over, Mrs. Scaife was charged with assault. The charges were later dismissed by District Justice Cathleen Bubash, but the three employees, using the same law firm as Mr. Scaife, filed suit for damages against Mrs. Scaife.

That case has yet to reach court.

In yet a third matter related to the Scaifes' marital woes, Mrs. Scaife last year filed a suit seeking the return of millions of dollars in art, antiques and personal effects she said her husband had retained. A copy of the initial filing remains on the county court's Web site, unsealed, although the court later rolled that suit into the overall divorce and support proceedings at family court and sealed subsequent filings.

### **What is his income?**

Amid the wrangling over trespass, battery and artwork, the Scaife divorce case has so far centered on Mr. Scaife's income and what should be counted as his monthly intake.

In that dispute, Mr. Scaife's outlays to underwrite the Tribune-Review have become the pivot on which the arguments have turned.

The Scaife media empire began with his purchase in 1970 of The Greensburg Tribune-Review. Over the following 37 years, he has accumulated a half-dozen small-circulation daily newspapers as well as several weeklies, along with starting a Pittsburgh edition of the Tribune-Review. They are now combined under the umbrella of the Tribune-Review Publishing Co.

While most of Mr. Scaife's papers turn a profit, the Pittsburgh Tribune-Review, according to financial data filed in his court pleadings, has drained anywhere from \$19 million to \$21 million per year in subsidies from one of Mr. Scaife's trust funds. While the Tribune-

Review's statements of circulation have never publicly broken out the numbers between Greensburg and Pittsburgh, an Oct. 20, 2006, income analysis done on Mr. Scaife's behalf as part of the support proceedings, put circulation of the Pittsburgh Tribune-Review at 52,453 daily and 70,155 Sundays, part of which is heavily discounted.

Repeatedly, Mr. Scaife has dipped into the principal of that fund, the 1935 Sarah Mellon Scaife Trust for Richard Mellon Scaife, eventually pouring \$140 million from it into the R.M. Scaife Capital Contribution Revocable Trust which, in turn, forwards the money to Tribune-Review Publishing. A memorandum, dated Oct. 24, 2000, from Edward Harrell, then president of Tribune-Review Publishing, to Mr. Gutnick, Mr. Scaife's personal attorney, estimated that the company would require underwriting of \$244,500,000 over the next 10 years.

Total calculations based on income documents filed on Mr. Scaife's behalf indicate he made as much as \$312 million in capital contributions to the Tribune-Review since 1992.

Mr. Scaife's subsidies of the Tribune-Review became a key point in the dispute because his lawyers argue that they represent business losses that should count against his aggregate monthly income. Along with the \$18 million he seeks to discount as business loss, he has asserted that \$11 million in money from the Charitable Uni-Trust should be discounted along with \$1.6 million from a 1965 family trust.

By the calculations of David Kaplan, a certified public accountant from the firm of Alpern Rosenthal retained by Mr. Scaife's lawyers to analyze his income, this would put his yearly income in 2005 not at \$45 million as Mrs. Scaife's lawyers contend, but somewhere around \$17 million.

An expert witness for Mr. Scaife regularly invoked the argument that there was a profit motive in his investment in the Tribune-Review. Historically, his lawyers argued, the company's other properties, including the larger circulation Greensburg paper, have turned a profit.

Mrs. Scaife's lawyers, on the other hand, insist the Tribune-Review falls more under the category of a hobby or personal cause, rather than a business whose losses are being endured until things can be turned around.

"Husband's argument that he should be permitted to deduct from his disposable income the \$18 million loss from his 'investment' is incredible, given that Husband himself does not treat the Tribune-Review the same as the other investments in his portfolio," Mrs. Scaife's lawyers replied. "If he did, the Tribune-Review would have been gone long ago. In fact, if his real investments performed like the Tribune-Review, Husband would be penniless instead of a billionaire, and attempting to collect support from his wife."

Mr. Kaplan clearly disagrees.

"Although [Tribune Review Publishing Co.] has not generated profits, the underlying component publications of TRPC have been profitable with the exception of the Pittsburgh Tribune-Review," he wrote.

### **Documents, records, homes**

Aside from pleadings over which income should be counted, the Scaifes have traded demands for everything from her wish to use any of the five other homes Mr. Scaife brought into the marriage, to his repeated effort to look inside his wife's two computers. At the same

time, they have traded accusations that Mr. Scaife is boxing up un-inventoried personal effects and property belonging to Mrs. Scaife and shipping them without notice to her home on Pitcairn Place in Shadyside.

"This juvenile behavior was clearly and solely designed to harass and annoy Wife, to taunt her with his control and power over her personal items, and to create obfuscation, chaos and uncertainty as to the existence, location, condition and ownership of the vast amounts of personal property owned by the parties," Mrs. Scaife's lawyers wrote in a complaint July 27.

They asked Judge Hertzberg to fine Mr. Scaife for his conduct.

Mr. Scaife's lawyers insisted he was merely complying with earlier demands by Mrs. Scaife that he return her property and that the complaint "is nothing more than a vexatious attempt to punish Husband by doing it."

They added that Mrs. Scaife had failed until the week of her complaint to produce inventories of the contents of the Pitcairn Place home.

They accuse her of "obdurate, dilatory and vexatious conduct" designed to harass Mr. Scaife.

Lawyers for Mr. Scaife asked to be allowed into Mrs. Scaife's home "for the purpose of inspecting, measuring and photographing the packages delivered to said address. ..."

The lawyers also are demanding that Mrs. Scaife produce, "all documents, reports, memoranda, letters and other forms of written or electronic communication prepared by the private investigator who was retained by you in or about December 2005, from the date of your first contact with him/her through the date of your response to this request."

None of the court documents identifies the investigator, but the request also covers "photos, videos, movies and other forms of electronic media created by the private investigator."

One of the items being fought by Mrs. Scaife's lawyers is a demand for the hard drives of her Mac Powerbook and iMac computers. Her lawyers say this is not a request for documents but for hardware that could be damaged in the process.

Judge Hertzberg later ordered both parties to maintain the status quo and wants all property inventoried before any more packages are moved. He later scheduled a hearing for next month to reconcile the conflicting claims about precisely when the couple split.

First published on September 16, 2007 at 12:00 am

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