

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 92

September Term, 2016

IMAN SALKINI

v.

JAY SALKINI

Graeff,
Kehoe,
Berger,

JJ.

Opinion by Berger, J.

Filed: April 5, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from a divorce proceeding before the Circuit Court for Howard County. The court granted appellee, Jay Salkini's ("Husband"), motion in limine preventing appellant, Iman Salkini's ("Wife"), business valuation expert witness from testifying regarding the value of Tecore, a company founded by Husband three years prior to the marriage. Among other things, the trial court awarded \$300,000.00 to Wife in its distribution of marital property. Wife appeals the court's grant of Husband's motion in limine and the court's determination of the monetary award.

Wife presents two questions for our consideration on appeal, which we have rephrased as follows:

1. Whether the circuit court abused its discretion when it granted Husband's motion in limine, excluding Wife's business valuation expert from testifying at trial.
2. Whether the circuit court abused its discretion when it awarded a total of \$300,000.00 to Wife after valuing the marital property and considering relevant factors but without explaining how the court reached the amount of that distribution.

BACKGROUND

Circumstances Leading to Marital Dissolution

In 1994, Husband was President and CEO of Tecore Inc. and Affiliates ("Tecore"), a small communications company in Maryland that Husband founded approximately three years earlier. Husband traveled to Syria in June, 1994 and met Wife, who was a college student at a Syrian university studying electrical engineering in her early twenties. The union was arranged by both Husband's and Wife's families. The following October, the

parties were married in a traditional Syrian wedding, before coming to the United States to be married in a civil ceremony in Howard County, Maryland on November 14, 1994.

Throughout the course of their marriage, the parties had three daughters, who are now approximately ages nineteen, sixteen, and nine. Husband's communications business experienced substantial growth and success, particularly after entering a contract with the United States military to provide 3G and 4G communications¹ between 2011 and 2013. Wife and Husband enjoyed a luxurious lifestyle, which included a stately family home, luxury automobiles, expensive jewelry and clothing, frequent domestic and international travel, and few limits on their personal spending. In addition to the parties' family home in Fulton, Maryland, which was valued at \$2.2 million, the parties also owned a second property in Clarksville, Maryland, valued at approximately \$600,000.00. Wife testified that both Husband and Wife were able to trade in his or her Mercedes or BMW for a new one every three years. Additionally, the parties hosted both social and business-related parties at their home, as well as at restaurants or other venues.

Unfortunately, the couple suffered marital problems throughout the marriage. Wife testified that Husband was physically abusive on multiple occasions, starting on the parties' wedding day. Some of these incidences were corroborated by photographs and by testimony of family members who witnessed particular events. Wife also testified that Husband would call her names and demean her.

¹ The terms "3G" and "4G" communications refer to "third generation" or "fourth generation" communication technology.

According to Wife, Husband's violence tended to be fueled by his jealousy over Wife and her interactions with others, although one witness testified that she witnessed Husband slap their eldest daughter on the face when she was late for curfew during a vacation in 2012. Wife testified that, although the couple socialized with a wide network of Syrian friends, Wife was not allowed to have American friends. Husband made it difficult for her to meet new people by preventing her from talking to neighbors, or attending activities like picnics and Christmas parties.

Husband was the sole income-earner throughout the marriage, and Wife's time was occupied primarily with the parties' three daughters. Wife testified that she was responsible for taking care of all of the children's basic needs, including driving them to and from school, managing doctor's appointments and extracurricular activities, and helping the children with their homework. Wife's English improved as she began speaking more English with her daughters at home and helped with their assignments. Wife handled other responsibilities within the family home, such as managing the upkeep of the house and paying for the family's day-to-day needs from a joint checking account that she shared with Husband.

Husband, on the other hand, was able to devote his time and energy to building Tecore and growing the business and its clientele. As the trial court noted, Wife was supportive of Husband's efforts to promote the success of the business. Husband often traveled domestically and internationally for work, while Wife stayed behind to care for the parties' three daughters. Wife testified that she often coordinated, cooked for, and hosted with Husband business-related parties at their home and other locations. The

business appraiser testified that approximately 75 percent of Tecore's business was the direct result of Husband's networking abilities and personal style.

Wife testified that she was not employed outside of the home, in part, because Husband did not want her to work. Wife attributed her inability to finish her education primarily to husband's jealousy and temper. Soon after moving to the United States, Wife attempted to complete her degree by attending one semester at the University of Maryland, Baltimore County. In addition to contending with a language barrier, however, Wife felt resistance from Husband who did not approve of her attending classes on campus. She later enrolled in online courses, but found it too difficult to complete the coursework without being able to speak to her professors in person. Wife testified that after their youngest daughter began elementary school, she suggested that she work with Husband at Tecore. According to Wife, Husband refused and stated that he did not want to see her speaking to his employees. Wife has never been employed, either in Syria or in the United States.

Despite Tecore's previous growth, the military upgraded its communications systems in 2013 and did not renew its contract with Tecore. The company experienced a period of decline as Tecore was unable to replace the contract. As the trial court noted, during the parties' marriage, "[t]he parties' standard of living reflected a larger amount of spendable resources than can be explained by Husband's stated income" of \$210,000 per year. The court noted its suspicion that the Husband's business had likely helped to fund the parties' lifestyle. The court pointed out, however, that credible evidence had

established that the business was in trouble after the loss of the government contract. In 2014, Tecore began laying off employees, while some left voluntarily.

On April 15, 2014, Husband executed a loan agreement with his business, giving Husband a line of credit for \$1,000,000, with a three percent interest rate. The principal balance was to be repaid by March 31, 2016. The loan was secured by the parties' principal residence. Husband made numerous withdrawals from this line of credit over the course of two years -- from January 21, 2014 to December 3, 2015² -- including wire transfers to his personal E-Trade and Suntrust accounts, as well as by making credit card payments and paying for various travel expenses, among other things.

The parties' relationship became increasingly strained. Husband believed that Wife had become distant towards him and did not care about his problems at work. At some point, Husband asked Wife to cut back on spending, and he testified that she did not comply. In spite of the parties' marital problems, in 2014, Husband and Wife threw a large celebration for their twentieth anniversary. At some point, Husband became upset over a picture from the party of Wife and Husband's cousin dancing together in a traditional folk dance along with a large group of people, but he did not immediately express his feelings to Wife.

On December 31, 2014, an argument ensued between Husband and Wife over Wife's apparel as the parties prepared to go out for New Year's Eve. Husband did not

² Based on the itemized list included in the record, the balance on the line of credit included transfers beginning January 21, 2014, although the loan agreement between Husband and Tecore was not executed until April 15, 2014.

approve of what Wife was wearing, and he became upset about the picture from the anniversary party. During the altercation, Husband grabbed wife's arm, leaving bruises, which were visible in photographs entered into evidence. The parties' stipulated that their eldest daughter would have testified that she saw Husband grab Wife's arm very hard and that he showed their eldest daughter the photo while saying "Look at your mother slutting around." Although the parties recount different versions of what transpired, the trial court found that "at the end of the evening Wife went to the eldest daughter[']s room to spend the night, and the next morning [the eldest daughter] called the police." Husband was removed from the home by law enforcement on January 1, 2015, and a protective order was entered against Husband. At the time of trial, the parties had lived separate and apart, without cohabitation and without interruption, since January 1, 2015.

Prior to the parties' argument, on December 31, 2014, Husband told Wife that he had recently transferred a sum of money into the parties' joint checking account by mistake. According to Husband's records, the amount Husband transferred from his line of credit with Tecore into the parties' joint account was \$262,410.13. On December 31, 2014, Husband attempted to transfer \$262,410.13, the same amount, from the parties' joint account back to Tecore. Also on December 31, 2014, Husband transferred \$222,410.13 to his E-Trade account. On January 2, 2015, Wife withdrew \$250,000 from the parties' joint account before the \$262,410.13 transfer to Tecore was complete, and the withdrawal caused there to be insufficient funds in the joint account.

As of December 31, 2014, the day before the parties separated, Husband had incurred a balance on the line of credit of approximately \$948,193.05,³ including Husband's December 31, 2014 transfer to his E-Trade account of \$222,410.13. Less than two weeks after the parties' separation, Husband made a payment of \$222,410.13 to Tecore, resulting in a balance of \$731,901.32. During the year that followed the parties' separation, Husband withdrew or made credit card payments increasing the balance by approximately \$264,710.63, for a final balance owed to Tecore in the amount of \$996,611.95 on December 3, 2015.

The trial court found that, during the period of separation, both parties liquidated assets and both incurred significant counsel fees. Although Husband had scaled back his lifestyle, Wife did not reduce her expenses to the same degree. Wife disposed of jewelry and other personal property at what the court found to be below market value. Wife testified that she liquidated those assets because she was not receiving support. In addition to paying taxes and personal expenses, Husband made several payments toward his *pendente lite* child support and alimony arrearages. He also made payments toward the family home and other expenses without a court order during the period when he sought to reconcile with Wife. Husband also spent money to maintain a separate \$10,000,000 trust account that was set up for the parties' children.

³ This amount takes into account that the \$262,410.13 transfer that Husband attempted to make to Tecore on December 31, 2014 was later returned due to insufficient funds in the parties' joint account.

Post-Separation Procedural History

Wife filed for divorce and was awarded *pendente lite* custody for the parties' two minor children, alimony, child support, temporary use and possession of the family home, contribution toward the household expense, and counsel fees. Husband filed a counter complaint for absolute divorce, and Wife filed a supplemental complaint for absolute divorce after the parties had been separated for over one year. The parties were granted a divorce on the ground of separation for more than twelve months. The parties also reached an agreement regarding custody of their two minor children, which is not in dispute. Based on Husband's annual income of \$210,000, the trial court set a final order of child support in the amount of \$2,090.00 per month and corrected an error in Husband's child support arrearage amount, leaving an arrearage of \$12,889.00.

Further, the trial court found that indefinite alimony was appropriate. The court found that even after Wife begins working, her lower earning capacity would leave an unconscionable disparity in the parties' respective standards of living. After the court considered the required factors, the court ordered Husband to pay indefinite alimony in the amount of \$6,500.00 per month. The court also corrected an error in the calculation of Husband's alimony payments set at the *pendente lite* hearing, lowering Husband's total alimony arrearage from \$52,360 to \$36,360.00.

On appeal, the remaining issues relate only to the court's division of marital property and the court's decision to exclude Wife's business valuation expert. Additional facts will be discussed *infra* as they become relevant.

DISCUSSION

I.

Before we reach the trial court's distribution of marital property, we first confirm that the trial court's findings are not clearly erroneous. *Richards v. Richards*, 166 Md. App. 263, 271–72 (2005); *Malin v. Mininberg*, 153 Md. App. 358, 414-15 (2003). We review a trial court's distribution of marital property and the decision to award a monetary award under an abuse of discretion standard:

[T]he ultimate decision regarding whether to grant a monetary award, and the amount of such an award, is subject to review for abuse of discretion. [*Alston v. Alston*, 331 Md. 496, 504 (1993)]. Under that standard, “we may not substitute our judgment for that of the fact finder, even if we might have reached a different result” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230, 752 A.2d 291, *cert. denied*, 361 Md. 232, 760 A.2d 1107 (2000). Although our review for abuse of discretion is deferential, “a trial court must exercise its discretion in accordance with correct legal standards.” *Alston*, 331 Md. at 504, 629 A.2d 70.

Flanagan v. Flanagan, 181 Md. App. 492, 521–22 (2008) (citations omitted) (footnote omitted).

II.

The first issue before us on appeal is whether the circuit court abused its discretion by granting Husband's motion in limine, which prevented Wife's business valuation expert, Kristopher Hallengren, from testifying as to the value of Tecore. A scheduling order was entered on March 20, 2015 pursuant to Maryland Rule 2-504, which contained the dates by which the parties were required to “identify each person whom the party expects to call as an expert witness at trial” and complete discovery. *See* Md. Rule

2-504(b). Wife sought to introduce testimony from her expert witness, a “Business Evaluation Analyst and Forensic Accountant,” regarding the total value of Tecore.

In her response to Husband’s interrogatories, Wife listed Hallengren as a business valuation expert, but noted that expert reports were not yet due. Wife’s counsel concedes, however, that they did not provide a copy of the expert’s report to Husband’s counsel until the day before trial. On the morning of trial, Husband’s counsel filed a motion in limine to exclude Wife’s expert witness testimony regarding the value of Tecore. After hearing arguments on the issue of Wife’s expert’s testimony, the trial court explained:

[H]e can testify in rebuttal. I’m not going to allow him to testify as to his opinion of the value. That [was] something specifically requested. There’s no question in my mind that that is something specifically requested in the pre-trial discovery that was not provided and could have been. He had been previously identified as an Evaluation Expert. The, the question specifically asks for the substance of his opinion or the basis of his opinion. That hasn’t been provided and it’s not going to happen for the first time in [c]ourt.

The Court of Appeals discussed the trial court’s broad discretion in *Rodriguez v.*

Clarke:

Trial judges are vested with great discretion in applying sanctions for discovery failures. *N. River Ins. Co. v. Mayor of Baltimore*, 343 Md. 34, 47, 680 A.2d 480, 486-87 (1996); *Starfish Condo. Ass’n v. Yorkridge Serv. Corp.*, 295 Md. 693, 712, 458 A.2d 805, 815 (1983) Moreover, the decision to grant sanctions is not limited to cases in which the trial judge has found the discovery violations to be willful or contumacious. *N. River Ins. Co.*, 343 Md. at 47, 680 A.2d at 486-87 We explicated in [*Mason v. Wolfing*, 265 Md. 234, 235 (1972)] that “[e]ven when the ultimate penalty of dismissing the case or entering a default judgment is invoked, it cannot be disturbed on appeal without a clear showing that this discretion was abused.” *See also Kelch v. Mass Transit*

Admin., 287 Md. 223, 229, 411 A.2d 449, 453 (1980), quoting *Balt. Transit Co. v. Mezzanotti*, 227 Md. 8, 13-14, 174 A.2d 768, 771 (1961). Thus, we review the Circuit Court's determination of discovery sanctions under an abuse of discretion standard. *N. River Ins. Co.*, 343 Md. at 47, 680 A.2d at 486-87. . . .

400 Md. 39, 56–57 (2007) (citations omitted).

The purpose of discovery is to prevent either party from going to trial “in a confused or muddled state of mind, concerning the facts that gave rise to the litigation.” *Rodriguez, supra*, 400 Md. at 57 (quoting *Mezzanotti, supra*, 227 Md. at 13). Indeed, the Maryland Rules provide the trial court with the discretion upon a proper motion to apply certain sanctions to a party who fails to comply with his or her discovery requirements. In pertinent part, Maryland Rule 2-433, entitled “Sanctions,” provides:

(a) For Certain Failures of Discovery. Upon a motion filed under Rule 2-432 (a), the court, if it finds a failure of discovery, may enter such orders in regard to the failure as are just, including one or more of the following:

. . .

(2) An order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence

Md. Rule 2-433.

The Court of Appeals, in *Taliaferro v. State*, provided particular factors to determine whether the exclusion of witness testimony due to a party's violation of disclosure requirements is an abuse of discretion. 295 Md. 376, 391-92 (1983). Those factors include (1) “whether the disclosure violation was technical or substantial”; (2) “the timing of the

ultimate disclosure”; (3) “the reason, if any, for the violation”; (4) “the degree of prejudice to the parties respectively offering and opposing the evidence”; (5) “whether any resulting prejudice might be cured by a postponement and, if so,” (6) “the overall desirability of a continuance.” *Id.* at 390–91.

In this case, Wife’s failure to provide notice of the content of the expert’s testimony until the day before trial was a substantial violation. The substantive content of the expert’s testimony involved the value of the parties’ most significant marital asset. Wife’s counsel explained that she did not receive the report until two weeks into December, but it was Wife’s burden to produce evidence contradicting Husband’s valuation of the business. Moreover, delaying the report until the day before trial obstructed Husband’s counsel’s ability to evaluate the expert’s report before hearing the expert’s appraisal of the value of the business for the first time in open court. Given the late notice and rather than delay the proceedings, the court determined that Wife’s counsel could rely on the expert witness as a rebuttal witness for Husband’s business valuation expert, but he could not testify as to his own estimation of the business’s value. Instead, the trial court permitted Wife to call Husband’s business valuation expert, Mr. Robert Carter, over Husband’s objection, to give his opinion regarding the value of Tecore.

The trial court was entitled to preclude the Wife’s business valuation expert from testifying in her case in chief regarding the value of the business due to Wife’s failure to provide Husband with the expert’s report until the day before the trial was set to begin. *See* Md. Rule 2-433(a)(2). We hold, therefore, that the trial court did not abuse its discretion

by excluding Wife's expert's valuation of the business from being entered for the first time in court.

III.

Neither party disputes the court's identification of marital property or the court's valuation of the property. Nevertheless, both sides present differing interpretations of the court's distribution, particularly regarding the total value of the parties' marital estate and the share of the marital property that each party received in the court's order. Moreover, Wife argues that the trial court did not properly consider the mandatory factors under Md. Code (2012), § 8-205(b) of the Family Law Article ("FL"), in reaching its decision to award a \$300,000 monetary award to Wife. Based on our review of the record, we hold that the court's determination of the amount of the monetary award given to Wife is not sufficiently explained. We, therefore, remand to the trial court for further proceedings consistent with this opinion.

The trial court's decision to grant a monetary award requires three steps of analysis contained in FL §§ 8-203 to 8-205. As we have previously explained:

First, for each disputed item of property, the chancellor must determine whether it is marital or non-marital. F.L. §§ 8-201(e)(1); 8-203. Second, the chancellor must determine the value of all marital property. F.L. § 8-204. Third, the chancellor must decide if the division of marital property according to title would be unfair. If so, the chancellor may make a monetary award to rectify any inequity "created by the way in which property acquired during marriage happened to be titled." *Doser v. Dosser*, 106 Md. App. 329, 349, 664 A.2d 453 (1995). See F.L. § 8-205(a); [*Long v. Long*, 129 Md. App. 554, 578-79 (2000)].

In regard to a monetary award, the chancellor is required to consider the statutory factors contained in F.L. § 8-205(b). *See Ware v. Ware*, 131 Md. App. 207, 213-14, 748 A.2d 1031 (2000); *Doser*, 106 Md. App. at 350, 664 A.2d 453.

Flanagan, supra, 181 Md. App. at 519-20.

Based on our review of the trial court's opinion, the sum of the court's valuation of all of the items in the parties' marital estate totals \$4,828,865.81. This figure includes the court's valuation of Tecore at \$2.1 million. The trial court noted that "[m]ost of the parties' wealth can be directly traced to Husband's ownership of Tecore." Indeed, Tecore is worth more than the combination of the parties' equity interest in the family home and the value of their second property. Unlike all of the other items of marital property, however, the court did not indicate how the value of the business was to be distributed.

The court reached its valuation of Tecore after rejecting Husband's expert's valuation and finding that Husband failed to meet his burden to establish the premarital value of the business. The court found, therefore, that "the premarital and post marital values of Tecore are comingled such that the entirety of [Tecore] is marital property with a value of \$2.1 [million]." The court pointed out, however, that the \$2.1 million figure "is only accurate if Husband pays back the \$996,000^[4] line of credit that is due next month."⁵

⁴ Based on Husband's financial records, the exact amount of the line of credit balance that was owed to Tecore as of December 3, 2015 was \$996,611.95.

⁵ According to the April 15, 2014 loan agreement between Husband and Tecore, the principal balance was due on March 1, 2016. It is not known whether or not Husband repaid the principal balance by the due date.

Further, the court stated that “a portion of that amount is attributable to the \$250,000 Wife removed from the joint account the day after the parties separated.”⁶

The court characterized the \$262,410.13 transfer from Husband’s line of credit just before the parties separated as “an advance” from Tecore to Husband which Husband mistakenly transferred into the parties’ joint account. The court found that Husband’s intent was to pay taxes with the money. Husband initiated a transfer back to Tecore on December 31, 2016, but there were insufficient funds in the joint account due to Wife’s withdraw of \$250,000. The balance of the debt to Tecore at the time of Wife’s withdrawal of \$250,000.00 was approximately \$731,901.32.⁷ Husband continued to draw on the line of credit during the parties’ separation, however, and ultimately reached a balance of \$996,611.95 prior to the parties’ divorce.

⁶ In the court’s discussion of the facts, the court explained the debt in the following way:

On January 2, 2015 Wife took \$250,000 out of the parties’ joint checking account. Husband had told Wife that the money had been put there by mistake, and had tried to retrieve the money on 12/31/14 prior to the parties’ argument. Husband’s transfer of the money from the joint account had not cleared by the time Wife went to the bank so she was able to remove the money. The money was an advance from Tecore which Husband intended to use to pay taxes.

⁷ This figure excludes Husband’s additional withdrawal of \$222,410.13 from his line of credit on December 31, 2014, which Husband transferred to his E-Trade account and then transferred back to Tecore in the exact amount less than two weeks later.

It is not clear whether Husband's \$996,611.95 debt on his line of credit with Tecore⁸ affected the court's distribution of marital property, but the court did not specifically identify the debt as a marital debt among other marital property, which would have reduced the value of the marital estate.⁹ Additionally, despite Husband's assertions, the court did not adjust explicitly the value of Tecore by Husband's balance of \$996,611.95. In its valuation of Tecore, the court appeared to assume that Husband would repay the loan to the business with interest, as required by the note that Husband's executed with Tecore.

In its order regarding the distribution of property, the court divided the parties' other assets relatively evenly. The parties' jointly owned real properties were to be sold, the Tecore 401k was to be divided evenly, Husband was to keep all accounts that were in his name (a total value of \$6,169.12) and Wife was to keep all accounts in her name (a total value of \$6,231.69). The parties were to keep all other personal property in their possession, such as clothes, jewelry, and furniture, except that Husband was allowed to retrieve certain furniture requested from the family home. As Husband points out, the trial court appears to award Wife a greater share of the parties' personal property. The court made no mention in these directives, however, of the parties' most valuable asset. As a

⁸ The court considered that Wife had contributed to Husband's debt to Tecore based on her withdrawal of \$250,000.00 from the parties' joint account, but the court did not find that Wife had dissipated these funds, as Husband represents on appeal.

⁹ In contrast, the court identified a separate debt -- a \$35,000.00 loan that was made by Wife's sister and brother-in-law to the parties -- as a marital debt. The court, however, noted that "[i]t was not taken into account in fashioning the monetary award," because the proceeds were no longer in the parties' possession, it was four years overdue, and it appears to be a bad debt.

result, the value of Tecore was effectively given to Husband. The court's order distributing the marital assets is extrapolated in the following chart: ¹⁰

Marital Property	Order/Title	Value/Equity	Husband	Wife
Family Home	Sell	1,367,804.00	683,902.00	683,902.00
Clarksville Property	Sell	600,000.00	300,000.00	300,000.00
Tecore 401k	Split	513,000.00	256,500.00	256,500.00
Furniture ¹¹	Wife	54,173.00	--	54,173.00
Women's Jewelry	Wife	136,995.00	--	136,995.00
Wife's Clothing	Wife	12,500.00	--	12,500.00
PNC Std. Checking	Wife	2,250.07	--	2,250.07
PNC Money Market	Wife	3,981.62	--	3981.62
Mercedes GLK	Wife	10,000.00	--	10,000.00
Men's Jewelry	Husband	20,000.00	20,000.00	--
Husband's Clothing	Husband	2,000.00	2,000.00	--
Ohio Life Insurance	Husband	1,412.00	1,412.00	--
LPL IRA	Husband	4,563.00	4,563.00	--
E-trade Account	Husband	187.12	187.12	--
Subtotal		2,728,865.81	1,268,564.12	1,460,301.69
Tecore, Inc. ¹²		2,100,000.00	2,100,000.00	--
Total		4,828,865.81	3,368,564.12	1,460,301.69
Monetary Award			- 300,000.00	300,000.00
Share of Marital Property			3,068,564.12	1,760,301.69

¹⁰ In Wife's brief, Wife's counsel presents a chart delineating the court's distribution of marital property; we do not agree, however, with Wife's interpretation of the court's order. Our chart is based solely on the trial court's specific findings regarding the identification and valuation of marital property as provided in its memorandum opinion.

¹¹ The court did not identify the value of the items that Husband was entitled to retrieve from the personal property located at the family home, nor the balance of the remaining personal assets Wife was entitled to keep in her possession. We attribute the entire value of the furniture to Wife's share of the estate for the purpose of reviewing the court's distribution of property.

¹² The trial court did not give an explicit order regarding the distribution of the value of Tecore. We assume that Tecore remained in Husband's possession.

According to the court's valuation of each item of marital property in its memorandum opinion, prior to the court's monetary award of \$300,000.00 to Wife, Husband's share of the marital estate totaled more than \$1.9 million more than the share the court distributed to Wife. Even after awarding \$300,000.00 to Wife, the court's distribution amounted to Husband receiving \$1.3 million more than the total value awarded to Wife. We note that the trial court did not compute a total valuation of the parties' marital estate or represent that Husband was to receive a significantly greater share of the marital property.

Wife argues on appeal that the trial court did not weigh the eleven factors listed in FL § 8-205(b) and failed to sufficiently state its reasoning in its distribution of the parties' marital property and determination of the amount of the monetary award. Under the "Required Considerations" of FL § 8-205(b), "[t]he court shall determine the amount and the method of payment of a monetary award . . . after considering each . . . factor[]" listed in the statute. The statute lists eleven factors:

- (1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- (2) the value of all property interests of each party;
- (3) the economic circumstances of each party at the time the award is to be made;
- (4) the circumstances that contributed to the estrangement of the parties;
- (5) the duration of the marriage;
- (6) the age of each party;

(7) the physical and mental condition of each party;

(8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;

(9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;

(10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and

(11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

FL § 8-205.

The trial court is not required to explain each fact considered under each factor of FL § 8-205(b), but all factors under the statute must be considered. *Flanagan, supra*, 181 Md. App. at 525. Further, an equitable distribution does not require that the trial court divide the value of the parties' marital estate equally. *Randolf v. Randolph*, 67 Md. App. 57, 58 (1986). We stated in *Randolf* that “[t]he court, after a consideration of the factors[] listed in [FL § 8-205] may decree an unequal division and state the reasons for such allocation.” *Id.* Indeed, we have reversed a monetary award where the finder of fact distributed marital property equally but did not justify that result by considering the factors in the statute. *Alston*, 331 Md. at 509.

In *Caccamise v. Caccamise*, we held that the trial court failed to set forth what relevant factors were considered in distributing \$950,000.00 net marital assets to the husband, and \$475,000.00 to the wife.

Upon dissolution of most long term marriages, the trial judge divides the marital property equally. This is not required, *Deering v. Deering*, 292 Md. 115, 131, . . . (1981), but has become the practice. The court, after a consideration of the factors listed in F.L. § 8-205, may decree an unequal division and state the reasons for such an allocation. Here, the trial court, explaining the disparity, said:

Considering all the work he put into the business, the age of the parties, and all other relevant factors, we believe \$425,000 is reasonable.

Because the parties were 51 and 52 years of age at the time of the trial, we fail to see what significance the trial judge attached to that Finally, the court considered “all other relevant factors.” The judge however, did not set forth what other relevant factors he considered so that we could determine whether there was an abuse of discretion in the division of the [marital] property. . . . On remand, the court should set forth which factors [as provided by FL § 8-205] influenced an unequal division of the marital property.

130 Md. App. 505, 522-23 (2000).

To be sure, in the instant case, the trial court referred to facts that are relevant to certain required considerations under FL §8-205(b). The court also made reference to the factors it considered in its alimony determination, some of which overlap with the required considerations under FL §8-205(b). It is not clear, however, whether the court intended to award disparate shares to the parties, and if so, what considerations justified the court’s award of the \$300,000.00 monetary award. For instance, the court discussed certain facts relevant to FL § 8-205(b)(3) -- “the economic circumstances of each party at the time the

award is to be made.” The court concluded that the parties’ uncertain financial futures were of equal weight, and therefore, that these facts did not weigh in either party’s favor.

Within the court’s discussion of alimony, however, the court found the following:

[E]ven after [Wife] has made as much progress as can be reasonably expected, the respective standards of living of the parties will be unconscionably disparate. Husband has for many years run a successful business that has funded the family’s lavish lifestyle, and Husband continues to have that earning capacity, even though his company has fallen on hard times.

Although Husband will be making alimony and child support payments, the court found that his annual income would likely remain at \$210,000.00.

The court discussed certain facts relevant to FL 8-205(b)(1) -- “the contributions, monetary and nonmonetary, of each party to the well-being of the family” -- and FL 8-205(b)(8) -- “how and when specific marital property . . . was acquired, including the effort expended by each party in accumulating the marital property” In discussing facts relevant to the parties’ respective contributions, the court stated:

Surely both parties made significant contributions to the success and wellbeing of the family. Husband worked hard and grew a successful company. He supported his family financially, and provided a very comfortable life for them, rich with travel, dining out, and social experiences. Wife took on the child rearing responsibilities, was a hostess for Husband’s social events, and a companion for Husband.

Most of the parties’ wealth can be directly traced to Husband’s ownership of Tecore. Husband has put a lot of time and effort into growing his company. The appraiser opined that Husband generated 75% of the company’s business[] through his connections and his personal style of doing business. Wife has been supportive of Husband in this, but it is clearly Husband who has made this asset what it is.

The court, however, did not expressly indicate its intent to allocate a greater share of the value of the business to Husband. As we noted in *Caccamise*, “the working spouse would normally be the one putting time and energy into the business.” 130 Md. App. at 522. For that party’s contributions to weigh in his or her favor, the trial court should “enumerate what work . . . beyond the ordinary . . . would account for uneven portions.” *Id.* To the extent that Husband’s more direct contributions to the business led to a sharp disparity in the court’s allocation of the business’s value to Husband, we reiterate that both direct and indirect, or monetary and nonmonetary, contributions must be considered consistent with the purposes of the statute. In *Strauss v. Strauss*, 101 Md. App. 490, 502 (1994), we explained the purpose of the Marital Property Act and its effect on the court’s consideration of the parties’ contributions:

Applying this three step analysis, courts are guided by the purpose of the Marital Property Act, which was designed to reflect the Legislature's goal of “correct[ing] those inequities that uncorrected historical development of the law had wrought” stemming from the husband's traditional role as breadwinner and the wife's corresponding role of family caretaker. *Unkle v. Unkle*, 305 Md. 587, 596, 505 A.2d 849 (1986) *quoting* the Governor's Commission on Domestic Relations Laws (1978) at 14. Thus, the Legislature took pains to mold a statute that recognizes that “a spouse whose activities do not include the production of income may nevertheless have contributed toward the acquisition of property by either or both spouses during the marriage” regardless of how that property may be titled. *Unkle*, 305 Md. at 595, 505 A.2d 849. The Court of Appeals has emphasized that “careful consideration” is to be “given to both monetary and nonmonetary contributions made by the respective spouses” in fashioning the most equitable money award. *Id.*

Strauss, supra, 101 Md. App. at 501–02.

In the case *sub judice*, the trial court noted in its valuation of marital property that the business “was actively grown during the parties’ marriage through the efforts of Husband, with Wife’s support.” Clearly, Wife’s emphasis on childcare and the family’s domestic needs permitted Husband to spend his time at work, growing the parties’ most valuable marital asset over the course of more than twenty years. During that time, Wife cared for three daughters and supported Husband’s efforts in the business, such as by hosting networking, political, and work-related events at the parties’ home and other locations.¹³ Wife stayed behind to care for the parties’ daughters while Husband traveled for business domestically and internationally. Additionally, the court found that Wife’s focus exclusively on the family’s domestic needs, rather than on working or attending classes was, at the very least, the result of the parties’ mutual agreement.

With respect to “the circumstances that contributed to the estrangement of the parties,” FL § 8-205(b)(4), the court found that the cause of the breakup of the marriage was “Husband’s temper.” Further, the court found that Husband had been physically violent during the marriage, although “there were other times when the parties got along.”

Finally, the court discussed facts that the court may have considered relevant to § 8-205(b)(11) -- “any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award” Here, the court

¹³ In deciding not to extend Wife’s use and possession of the family home, the court noted that the parties had previously hosted “large social gatherings in the home, entertaining up to 100 people, for business, social, and political reasons.” In light of the divorce, this issue will not resurface as Wife will no longer have a need to host similar events.

focused on the parties' spending habits during the year following their separation, starting with Wife's withdrawal from the parties' joint account. The court found that Wife had not significantly reduced her expenses after the separation, that Wife "sold some of the marital property at what would seem to be below market prices" and that Wife had "funded her counsel fees." In the court's alimony determination, however, the court considered that "[b]oth parties . . . liquidated assets while this case was pending, and each likely incurred significant counsel fees." Additionally, even assuming, as Husband argues, that the court adjusted the value of Tecore by the amount that Husband owed to the business and reduced Wife's share of the marital property by the \$250,000 she withdrew immediately after the parties separated, it is not clear why Husband's share was not similarly adjusted by the amount he withdrew from the line of credit, which increased the debt to Tecore by \$264,710.63 after the parties' separation.

Without indicating whether these considerations led the court to find that Husband was entitled to a greater share of the marital property, the court issued the following order:

When taking all of these factors into account, as well as the factors already discussed in the alimony section of this memorandum, and the factors set forth in Section 8-205 of the Family Law Article, the Court orders the following distribution of marital property:

[The family home in Fulton, Maryland] to be sold[.]

[The second property in Clarksville, Maryland] to be sold[.]

Husband shall retrieve from the marital home all items requested in Defendant's exhibit 14 (Attachment A) except for the Samsung television.

Wife shall keep the women's jewelry.

Husband shall keep the men's jewelry.

Each party shall keep all other personal property in his or her possession.

Tecore Nationwide 401(k) shall be divided equally between the parties by way of a qualifying court order. Wife shall arrange for the necessary court order.

Each party shall keep all other accounts in his or her own name.

In order to balance the equities, the Court will order Husband to pay Wife a monetary award in the amount of \$300,000, which shall be paid in 6 equal installments of \$50,000 each as set forth in the order.

In response to Wife's assertion that she received a disparate share of the marital estate, Husband attempts to explain the court's reasoning and speculates as to how the trial court may have arrived at the \$300,000 monetary award:

[T]he trial court found the value of Tecore to be \$2.1 million, with that value predicated upon [Husband] paying back a \$996,000.00 outstanding loan to Tecore. Accordingly, the net value of Tecore was \$1,104,000.00. If the trial court determined that value should be equally divided between the parties, which even [Wife] concedes is not required under Maryland law, then [Wife] would have received an award of \$552,000.00. Since the court also determined that Appellant had already received \$250,000.00, which she absconded with from the parties' joint account, that would reduce her entitlement to \$302,000.00 -- nearly exactly what she was awarded. Despite [Wife's] effort to obfuscate and complicate this issue, the mystery is solved.

We decline to speculate as to what considerations led the court to arrive at its monetary award. Notably, the trial court valued the business at \$2.1 million and then pointed out that this value assumes that Husband will repay the \$996,611.95 debt to the business. The court did not indicate specifically that it had adjusted the value of Tecore by

Husband's \$996,611.95 balance to Tecore. Indeed, after Wife withdrew the \$250,000 from the parties' joint account, Husband's balance on the line of credit was effectively \$731,901.32. Husband's speculation into the court's analysis, therefore, cannot explain how the court treated the additional \$264,710.63 debt that Husband incurred and spent during the year following the parties' separation with respect to the court's valuation of the business. We hold, therefore, that the trial court's failure to explain the inequitable distribution of marital property merits remanding this case to the trial court.

On remand, the trial court should explain whether, after considering the required factors in FL § 8-205(b), Husband is entitled to a greater share of the parties' marital property, if that is what the court determines constitutes an equitable distribution. Further, the trial court should address, specifically, the total value of Tecore and explain whether the court adjusted its value based on any part of the balance owed to Tecore on Husband's line of credit.¹⁴ Finally, to prevent any misinterpretation regarding the court's valuation and equitable distribution of the parties' marital property, the court should clarify the total share or proportion of the marital estate that each party is entitled to receive. In short, the absence of these findings is at the heart of the parties' differing interpretations of the trial court's opinion.

For these reasons, we vacate the trial court's decision with respect to the monetary award to Wife and remand the case for further proceedings consistent with this opinion.

¹⁴ The trial court noted that Husband's debt on the line of credit was due soon after the court issued its opinion. The note in the record states that the principal on the line of credit was due March 1, 2016. On remand, the court should inquire into whether the debt was repaid.

We emphasize that our holding does not obligate the trial court to change the amount of the monetary award granted to Wife. The court, however, must consider the factors enumerated in FL § 8-205(b) and provide its reasoning for distributing the marital estate in the manner it decides, consistent with the purposes of the statute.

JUDGMENTS OF THE CIRCUIT COURT FOR HOWARD COUNTY AFFIRMED IN PART AND VACATED IN PART. CASE REMANDED TO THE CIRCUIT COURT FOR HOWARD COUNTY FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE SPLIT EVENLY BY APPELLANT AND APPELLEE.