

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

L.E.,	:	
Plaintiff	:	
	:	
v.	:	No. 03-21,681
	:	PACES NO. 399105953
G.R.,	:	
Defendant	:	

**OPINION and ORDER**

This opinion addresses the Exceptions filed by Father to the Master's order of July 21, 2004, regarding child support. The Exceptions relate primarily to the Master's assessment of Father's income.

Father is the sole owner/operator of a trucking company. On March 16, 2004, Father was injured in a vehicular accident and his physician testified that Father was unable to work from the date of the accident until September 16, 2004.

The Master divided the order into three time periods: (1) Before the accident, (2) During the time Father was off work, and (3) After Father was able to return to work. The Master calculated Father's income for the first and third periods by using Father's 2003 federal tax return, paystub, and tax refund, which resulted in a net monthly income of \$3,034.43. The Master did not assess him any income from the corporation.

However, the Master assigned Father an income from the corporation for the time period when he was unable to work. The Master justified doing this by pointing to the corporation's profit and loss statement from January 1, 2004 through May 31, 2004, which shows a profit of \$2841.00 during this period. The Master then cited Father's salary earnings of \$7,708.27 (Father's received his last paycheck on March 23, 2004) and somehow arrived at an earning capacity during this period of \$1195. Adding

Father's monthly income from his 2003 tax refund, the Master then arrived at a net monthly income/earning capacity of \$1336.00.

The court finds this method to be incorrect for two reasons. First, it is inconsistent to assess Father with income from the corporation (other than his salary) during the period of his disability, but not during the period when he was working. Either Father is taking money from the corporation other than his salary, or he is not. The corporation's accountant testified that Father does not take money from the corporation other than his salary, and upon reviewing the corporation's 2003 tax return, the court finds that statement to be accurate. We note the tax return contains nothing suspicious in this regard. We also note the return shows a net loss of \$2401 for the year, with few if any add-back items. In short, it appears Father's sole compensation for his work is through his salary.

Second, the court is extremely reluctant to assess a corporation's profit on anything less than a yearly basis. To look at the profit earned in five months is to look at an incomplete financial picture. For instance, comparing the corporation's 2003 tax return with the 2004 five month profit and loss statement reveals that the corporation will be paying the bulk of its insurance costs in the latter half of the 2004.

For these reasons, the court finds that Father's income during the period of his disability should be set at \$136.75 per month, which constitutes his pro-rated tax refund.<sup>1</sup>

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<sup>1</sup> Father received public assistance, which cannot be counted for child support purposes. Rule 1910.16(b)(1).

**ORDER**

AND NOW, this \_\_\_\_\_ day of November, 2004, for the reasons stated in the foregoing opinion, Father's Exceptions relating to Father's income during the period of his disability are granted and the remaining exceptions are dismissed. It is therefore ordered that:

1. For the time period of March 16, 2004 until September 16, 2004, Father's child support payments shall be \$31.92 per month, his health insurance obligation shall be \$8.78 per month, and he shall be responsible for 5.7% of unreimbursed medical expenses.
2. In all other respects, the Master's order of April 7, 2004 is affirmed.

BY THE COURT,

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Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk  
Hon. Richard A. Gray  
Christopher Williams, Esq.  
Joy McCoy, Esq.  
Domestic Relations (MR)  
Family Court  
Gary Weber, Esq.