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CRAIG E. TUCKMAN *v.* KAREN R. TUCKMAN  
(SC 18786)

Norcott, Palmer, Zarella, Eveleigh and Alvord, Js.

*Argued January 8—officially released March 26, 2013\**

*Kenneth J. Bartschi*, with whom were *Brendon P. Levesque* and, on the brief, *Wesley W. Horton*, for the appellant (plaintiff).

*Charles W. Fleischmann*, for the appellee (defendant).

*Opinion*

EVELEIGH, J. In this certified appeal,<sup>1</sup> the plaintiff, Craig E. Tuckman, appeals from the judgment of the Appellate Court reversing the judgment of the trial court with respect to the financial orders in this action dissolving his marriage to the defendant, Karen R. Tuckman. *Tuckman v. Tuckman*, 127 Conn. App. 417, 14 A.3d 428 (2011). The dispositive issues in this appeal are whether: (1) the Appellate Court properly determined that the trial court failed to apply the child support guidelines when the defendant sought unallocated alimony and support, and failed to file the required child support guidelines worksheet; and (2) the trial court properly determined that the defendant's subchapter S allocated income<sup>2</sup> should be included in her annual net income. We affirm the judgment of the Appellate Court.

The opinion of the Appellate Court sets forth the following facts and procedural history. "The defendant and the plaintiff . . . were married on November 3, 1990. They have two children, a son, born in 1994, and a daughter, born in 1996. Both parties have substantial income and assets available to them. In 2005 and 2006, the defendant had an income of \$530,000 and \$945,000, respectively. The defendant's assets included a one-third stake in BJK Partners (BJK), an investment partnership with her two older brothers, and a one-third ownership interest in Offices Limited, Inc., a family office furniture business. According to the parties' financial affidavits, at the time of trial, the defendant's share of BJK was valued at approximately \$2.7 million, while her share of Offices Limited, Inc., was valued at \$1.25 million. The defendant also earned well over \$2 million through her BJK investment partnership between 1996 and 2007. In 2006 and 2007, the plaintiff, who worked in the commodities division at Merrill Lynch, each year earned a base compensation of \$200,000 with a bonus of \$1.5 million. In 2008, the plaintiff was set to begin employment at Citicorp, where he was to receive base pay along with a bonus of \$1.25 million in 2009 and 2010.

"On September 13, 2006, the plaintiff brought this dissolution action by complaint in which he sought a dissolution of the marriage and an appropriate order regarding custody, child support and educational support of their minor children. Thereafter, the defendant filed an answer and cross complaint in which she sought a dissolution of the marriage, alimony, joint custody of the minor children, child support, educational support, an assignment of the plaintiff's estate, an order directing the plaintiff to provide security in satisfaction of any judgment rendered and attorney's fees.

"Following a trial, on January 8, 2009, the court, *Hon. Howard T. Owens, Jr.*, judge trial referee, issued its memorandum of decision, dissolving the parties' mar-

riage, adopting the parties' agreed parenting plan and setting forth its financial orders. The court found, as it related to fault, that 'neither party is to blame—it is just a marriage that despite the parties' efforts, it did not succeed.' In so finding, the court issued the following financial orders: (1) no periodic alimony to either party; (2) \$250 per week in support of each child to the defendant; (3) property of the parties to be divided with 67 percent going to the defendant and 33 percent to the plaintiff, with the exception of [one particular] account, which went to the defendant; (4) possession of the marital home to the defendant and one half of its equity, or \$528,183, to be paid to the plaintiff within sixty days; (5) denial of the defendant's request for attorney's fees; and (6) additional orders relating to personal property and medical insurance and expenses.

"The plaintiff and the defendant filed numerous motions for articulation and to reargue. In response, the court rectified its judgment and clarified several statements in its memorandum of decision. The court denied the defendant's requests to reconsider its decisions on alimony, asset division and attorney's fees." *Id.*, 419–20.

Thereafter, the defendant appealed to the Appellate Court claiming, *inter alia*, that the trial court abused its discretion by improperly awarding her an insufficient amount of child support. *Id.*, 418–19. The Appellate Court concluded that the trial court abused its discretion because "[t]he [trial] court's order failed to follow the guideline's tables, and, more importantly, its memorandum of decision failed to make any reference to the guidelines." *Id.*, 425. The Appellate Court continued: "Thus, we are left to speculate as to whether the court acknowledged the guidelines but deviated from them without making findings on the record as to how application of the guidelines would be inequitable or inappropriate, or, in the alternative, disregarded the guidelines entirely. In either case, the court violated the statutory provisions by failing to articulate its reasons for deviating from the child support guidelines. We, therefore, conclude that the court abused its discretion when it awarded \$250 per child per week to the defendant." *Id.* Thereafter, the Appellate Court reversed the judgment of the trial court as to the financial orders and ordered a new trial. *Id.*, 427. As a result of this conclusion, the Appellate Court did not address the two other issues on appeal, namely, whether the trial court abused its discretion by failing to award the defendant alimony or by determining that the investment assets held by [a certain premarital trust] were part of the marital estate. *Id.*, 418–19, 427 n.3. This appeal followed.<sup>3</sup>

After hearing oral arguments in this case, this court issued an order transferring the other claims raised by the defendant at the Appellate Court to this court, and ordered the parties to file supplemental briefs

addressing those issues. The issues were identified in this court's order as follows: "(1) Did the trial court properly determine that the defendant's [s]ubchapter S allocated income should be included in her per annum income? (2) Did the trial court properly determine that the trust established on October 24, 1990, was not, in fact, a trust, but rather was an asset belonging to the defendant and subject to payment to her, of its principal and interest?" Thereafter, this court heard oral argument on these supplemental issues.<sup>4</sup>

We begin by setting forth the applicable standard of review. "The well settled standard of review in domestic relations cases is that this court will not disturb trial court orders unless the trial court has abused its legal discretion or its findings have no reasonable basis in the facts. . . . As has often been explained, the foundation for this standard is that the trial court is in a clearly advantageous position to assess the personal factors significant to a domestic relations case . . . . *Simms v. Simms*, 283 Conn. 494, 502, 927 A.2d 894 (2007), quoting *Borkowski v. Borkowski*, 228 Conn. 729, 739, 638 A.2d 1060 (1994). In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action. . . . *Bender v. Bender*, 258 Conn. 733, 740, 785 A.2d 197 (2001). Notwithstanding the great deference accorded the trial court in dissolution proceedings, a trial court's ruling . . . may be reversed if, in the exercise of its discretion, the trial court applies the wrong standard of law. *Borkowski v. Borkowski*, supra, 740. The question of whether, and to what extent, the child support guidelines apply, however, is a question of law over which this court should exercise plenary review. See *In re T.K.*, 105 Conn. App. 502, 506, 939 A.2d 9 ([t]he application of a statute to a particular set of facts is a question of law to which we apply a plenary standard of review), cert. denied, 286 Conn. 914, 945 A.2d 976 (2008); *Unkelbach v. McNary*, 244 Conn. 350, 357, 710 A.2d 717 (1998) (interpretation of statutory scheme that governs child support determinations constitutes question of law)." (Internal quotation marks omitted.) *Maturo v. Maturo*, 296 Conn. 80, 87-88, 995 A.2d 1 (2010).

## I

The plaintiff claims that the Appellate Court improperly concluded that the trial court abused its discretion in awarding the defendant an insufficient amount of child support. Specifically, the plaintiff asserts that the Appellate Court should not have reached the merits of the defendant's claim regarding child support because she induced the supposed error and waived her right to review. The plaintiff claims that, because the defendant sought unallocated alimony and child support under General Statutes § 46b-84<sup>5</sup> without referring to the child support guidelines, the defendant effectively induced

any supposed error and, therefore, the Appellate Court improperly considered the merits of the defendant's claim regarding child support.<sup>6</sup> In response, the defendant asserts that the Appellate Court properly considered her claim regarding child support. Specifically, the defendant claims that her decision to request unallocated alimony and child support should not deprive her of the right to have her claim regarding child support considered on appeal, particularly where the trial court awarded no alimony. The defendant further claims that the doctrine of induced error does not apply in the present case because the trial court rejected her proposed order. Finally, the defendant asserts that the Appellate Court properly concluded that the trial court abused its discretion by failing to make a factual finding regarding the net income of the plaintiff when fashioning its support order. We agree with the defendant.

In its memorandum of decision in the present case, the trial court entered the following order regarding child support: "As a contribution [toward] expenses related to the children when they are with [the defendant], the [plaintiff] shall pay child support to the [defendant] in the amount of \$250 per week for each child." The trial court also stated in its memorandum of decision that it "considered the gross and net income of the parties."

Thereafter, the defendant filed a motion for articulation in which, inter alia, she requested that the trial court "articulate and clarify . . . [f]or purposes of the [trial] court's child support orders . . . did the [trial] court accept either parties' child support calculation worksheet and what did the [trial] court find to be the net income of each party?" Although the trial court articulated and clarified some issues in its memorandum of decision, it did not address this request. In reviewing the trial court's memorandum of decision, the Appellate Court concluded as follows: "Based on the record before us and the court's memorandum of decision, we cannot conclude that the court properly fashioned its child support order. The court's order failed to follow the guideline's tables, and, more importantly, its memorandum of decision failed to make any reference to the guidelines. Thus, we are left to speculate as to whether the court acknowledged the guidelines but deviated from them without making findings on the record as to how application of the guidelines would be inequitable or inappropriate, or, in the alternative, disregarded the guidelines entirely. In either case, the court violated the statutory provisions by failing to articulate its reasons for deviating from the child support guidelines. We, therefore, conclude that the court abused its discretion when it awarded \$250 per child per week to the defendant." *Tuckman v. Tuckman*, supra, 127 Conn. App. 425.

On appeal to this court, the plaintiff asserts that the

trial court was not required to make any reference to the guidelines, or give its reasons for deviating from them, because the defendant sought unallocated alimony and support and did not reference the guidelines in her proposed orders. The plaintiff further asserts that by seeking unallocated alimony and support of at least \$7500 per month, the defendant conceded that the guidelines would be inapplicable in the present case.<sup>7</sup> We disagree.

In *Maturo v. Maturo*, supra, 296 Conn. 89–90, this court considered the impact of the child support statutes, regulations and guidelines on high income families. In doing so, this court recognized that “[t]he legislature has enacted several statutes to assist courts in fashioning child support orders. Section 46b-84 provides in relevant part: ‘(a) Upon or subsequent to the annulment or dissolution of any marriage or the entry of a decree of legal separation or divorce, the parents of a minor child of the marriage, shall maintain the child according to their respective abilities, if the child is in need of maintenance. Any postjudgment procedure afforded by chapter 906 shall be available to secure the present and future financial interests of a party in connection with a final order for the periodic payment of child support. . . .’

“(d) In determining whether a child is in need of maintenance and, if in need, the respective abilities of the parents to provide such maintenance and the amount thereof, the court shall consider the age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child.’ ” *Id.*

This court also recognized that “[t]he legislature also has provided for a commission to oversee the establishment of child support guidelines, which must be updated every four years, ‘to ensure the appropriateness of child support awards . . . .’ General Statutes § 46b-215a. . . . Moreover, the legislature has thrown its full support behind the guidelines, expressly declaring that ‘[t]he . . . guidelines established pursuant to section 46b-215a and in effect on the date of the support determination *shall be considered in all determinations of child support amounts* . . . . In all such determinations, there shall be a rebuttable presumption that the amount of such awards which resulted from the application of such guidelines is the amount of support . . . . A specific finding on the record that the application of the guidelines would be inequitable or inappropriate in a particular case, as determined under criteria established by the [commission] under section 46b-215a, shall be required in order to rebut the presumption in such case.’ . . . . General Statutes § 46b-215b (a).”

(Emphasis in original.) *Maturo v. Maturo*, supra, 296 Conn. 90–91.

“The guidelines include a schedule for calculating ‘the basic child support obligation’ for families that have two minor children and a combined net weekly income ranging from \$310 to \$4000. [Regs., Conn. State Agencies] § 46b-215a-2b (f). The guidelines provide in relevant part that, ‘[w]hen the parents’ combined net weekly income exceeds [\$4000], child support awards shall be determined on a case-by-case basis, and the current support prescribed at the [\$4000] net weekly income level shall be the minimum presumptive amount.’ Id., § 46b-215a-2b (a) (2). . . . In accordance with the statutory directives set forth in General Statutes § 46b-215b (a), the guidelines emphasize that the support amounts calculated thereunder are the correct amounts to be ordered by the court unless rebutted by a specific finding on the record that such an amount would be inequitable or inappropriate. Id., § 46b-215a-3 (a). Any such finding shall include the amount required under the guidelines and the court’s justification for the deviation, which must be based on the guidelines’ ‘[c]riteria for deviation . . . .’ Id., § 46b-215a-3 (b); see also General Statutes § 46b-215b (a).” (Citations omitted.) *Maturo v. Maturo*, supra, 296 Conn. 91–92.

“In sum, the applicable statutes, as well as the guidelines, provide that all child support awards must be made in accordance with the principles established therein to ensure that such awards promote ‘equity,’ ‘uniformity’ and ‘consistency’ for children ‘*at all income levels.*’ . . . [Child Support and Arrearage Guidelines (2005)], preamble, § (c) (1) and (2), p. ii; id., § (e) (6), p. vi. [Section] § 46b-84 specifically instructs that courts shall consider various characteristics and needs of the child in determining whether support is required, the amount of support to be awarded and the respective abilities of the parents to provide such support. Although the guidelines grant courts discretion to make awards on a ‘case-by-case’ basis above the amount prescribed for a family at the upper limit of the schedule when the combined net weekly income of the parents exceeds that limit, which is presently \$4000; Regs., Conn. State Agencies § 46b-215a-2b (a) (2); the guidelines also indicate that such awards should follow the principle expressly acknowledged in the preamble and reflected in the schedule that the child support obligation as a percentage of the combined net weekly income should decline as the income level rises. Thus, an award of child support based on a combined net weekly income of \$8000 must be governed by the same principles that govern a child support award based on a combined net weekly income of \$4000, even though the former does not fall within the guidelines’ schedule. Finally, although courts may, in the exercise of their discretion, determine the correct percentage of the combined net weekly income assigned to child support



in light of the circumstances in each particular case, including a consideration of other, additional obligations imposed on the noncustodial parent, any deviation from the schedule or the principles on which the guidelines are based must be accompanied by the court's explanation as to why the guidelines are inequitable or inappropriate and why the deviation is necessary to meet the needs of the child. See also General Statutes § 46b-84 (d)." (Emphasis in original.) *Maturo v. Maturo*, supra, 296 Conn. 94–96.

As previously explained, child support orders are based on the net weekly income of the parties. Indeed, the chart contained within the child support guidelines is arranged by net weekly income. Although the trial court in the present case stated that it considered the gross and net income of the parties, it never determined the net income of the parties in its memorandum of decision. Without a determination of the net income of the parties, the trial court could not, as required by the guidelines, determine the presumptive amount of support required by the guidelines.

Furthermore, the plaintiff seems to assert that the fact that the defendant sought unallocated alimony and support allowed the trial court to make its award without determining the net income of the parties or referencing the child support guidelines. We disagree. In its memorandum of decision, the trial court specifically determined that "no periodic alimony [should] be awarded to either party." Instead, the trial court determined that "[the plaintiff] shall pay child support to the [defendant] in the amount of \$250 per week for each child." Accordingly, as we have explained previously herein, the trial court was required to make its child support award in accordance with the applicable statutes and guidelines, and any deviation from the guidelines must be accompanied by a specific finding on the record that the application of the guidelines would be inequitable or inappropriate in a particular case. The fact that the defendant may have requested unallocated alimony and support does not alter the obligations of the trial court in making its award of child support in the present case.

Accordingly, we conclude that the Appellate Court properly determined that the trial court abused its discretion when it awarded \$250 per child per week to the defendant without determining the net income of the parties, mentioning or applying the guidelines, or making a specific finding on the record as to why it was deviating from the guidelines.

## II

We next address the defendant's claim that the trial court improperly determined that her subchapter S allocated income should be included in her annual net income. Specifically, the defendant asserts that the trial

court improperly relied on her personal tax returns showing the taxable income of a S corporation of which she is a shareholder. The defendant claims that the trial court improperly relied on that income in determining alimony and child support, despite the fact that it was not available to her. In response, the plaintiff claims that the trial court did not improperly consider the defendant's gross income and that it properly considered the defendant's subchapter S allocated income under the facts of the present case. We agree with the defendant.

“It is well settled that a court must base child support and alimony orders on the available net income of the parties, not gross income. *Collette v. Collette*, 177 Conn. 465, 469, 418 A.2d 891 (1979); *Tobey v. Tobey*, 165 Conn. 742, 747, 345 A.2d 21 (1974); *Evans v. Taylor*, 67 Conn. App. 108, 111, 786 A.2d 525 (2001); *Ludgin v. McGowan*, 64 Conn. App. 355, 358, 780 A.2d 198 (2001).” *Morris v. Morris*, 262 Conn. 299, 306, 811 A.2d 1283 (2003).

In the present case, the trial court stated in its memorandum of decision as follows: “It should be noted that an examination of [the defendant's] tax returns shows that in 2006 her income was approximately \$945,000 and the year before approximately \$580,000.” The trial court further stated in its memorandum of decision, as clarified by a subsequent rectification, “[the defendant] has substantial income available to her (at least \$500,000 per annum).”

An examination of the defendant's tax returns demonstrates that a substantial portion of her taxable income for the years 2005 and 2006 was income from her share of the S corporation, Offices Limited, Inc. Because Offices Limited, Inc., is organized as a S corporation, all of its capital gains and losses, for federal income tax purposes, pass through Offices Limited, Inc., to the individual shareholders, and any federal income tax liability on capital gains is the responsibility of the individual shareholder. See *Ruscito v. F-Dyne Electronics Co.*, 177 Conn. 149, 162, 411 A.2d 1371 (1979). “All of the earnings of such a company must be reported as individual income by its [shareholders].” *Outdoor Development Corp. v. Mihalov*, 59 Conn. App. 175, 180 n.7, 756 A.2d 293 (2000). The trial court did not, however, make any finding as to what portion of the income reported on her tax returns was actually available to the defendant and what portion was merely “[pass] through earnings” of the S corporation. In fact, the defendant's testimony at trial indicated that none of the shareholder taxable income was available to her, but was retained by the corporation for investment. She testified that only her salary of approximately \$85,000 was available income.

Although this court has not directly addressed how to treat, for purposes of determining a parent's financial obligations, undistributed earnings of an S corporation

that for income tax purposes are attributable to the parent-shareholder, we are persuaded by the Massachusetts Supreme Judicial Court, which addressed this issue in *J.S. v. C.C.*, 454 Mass. 652, 912 N.E.2d 933 (2009). The Massachusetts Supreme Judicial Court while recognizing that courts in a number of other jurisdictions have considered how to treat the retained earnings of an S corporation that are passed through to a shareholder for purposes of measuring and imposing a child support obligation, concluded as follows: “[T]he better reasoned decisions require a case-specific, factual inquiry and determination . . . . We follow the lead of these cases, and similarly conclude that a determination whether and to what extent the undistributed earnings of an S corporation should be deemed available income to meet a child support obligation must be made based on the particular circumstances presented in each case. Such a fact-based inquiry is necessary to balance, inter alia, the considerations that a well-managed corporation may be required to retain a portion of its earnings to maintain corporate operations and survive fluctuations in income, but corporate structures should not be used to shield available income that could and should serve as available sources of child support funds.” *Id.*, 662–63.

The Massachusetts Supreme Judicial Court noted some relevant factors that a trial court judge should weigh in determining what portion of undistributed corporate earnings may be available to a shareholder for a child support obligation, “[f]irst, a shareholder’s level of control over corporate distributions—as measured by the shareholder’s ownership interest—is a factor of substantial importance. . . . A minority shareholder lacking the power unilaterally to order a distribution may be relatively unlikely to have access to retained income of the corporation. . . . A majority shareholder may be relatively more likely to have access to retained funds and ability to manipulate pass-through income, and a sole shareholder even more so. . . . Second, the judge should evaluate the legitimate business interests justifying retained corporate earnings. . . . Third, the judge should weigh affirmative evidence of an attempt to shield income by means of retained earnings. . . . In that regard, the corporation’s history of retained earnings and distributions may be relevant. . . . Finally, it is important to consider the allocation of burden of proof in relation to the treatment of an S corporation’s undistributed earnings for purposes of determining income available for child support; this is an issue on which courts in other jurisdictions are split. Some courts shift the burden of proof depending on the shareholder’s level of control over the corporation: a minority shareholder is presumed not to have access to retained income and therefore does not carry the burden of proof, while a majority or sole shareholder is presumed to have access to retained income and

does carry the burden of proof. . . . Other courts place the burden on the shareholder to present evidence that he or she does not have access to retained income regardless of the shareholder's ownership percentage in the corporation; they reason that the shareholder is the party with greater access to the evidence. . . . We are persuaded that the second approach is more appropriate, because we agree that regardless of the percentage of his or her ownership interest, the shareholder is likely to have greater access to relevant information about the corporation than a party who is not connected to it." (Citations omitted.) *Id.*, 663–65; see also *In re Marriage of Brand*, 273 Kan. 346, 356, 44 P.3d 321 (2002) (Kansas courts do not presume that individual's share of S corporation's income should be included as income for purposes of calculating child support, instead requires factual analysis applied on case-by-case basis, no bright-line rule, variety of circumstances unique to S corporations that makes determination difficult); *Walker v. Grow*, 170 Md. App. 255, 281, 907 A.2d 255 (2006) ("[I]n determining a parent's actual income for child support purposes, a trial court can consider whether subchapter S income shown on a parent's tax return was actually received by the parent as actual income, or constituted pass-through income not available for child support. Distributions from an S corporation that are used to fund ordinary and necessary business related investments are not required to be included in the computation of the parent's actual income.").

In considering the same issue, the Florida's District Court of Appeal concluded that a majority shareholder's pass through income from an S corporation should not be included in available income for the purposes of determining alimony and child support. *Zold v. Zold*, 880 So. 2d 779, 781 (Fla. App. 2004). In doing so, it recognized as follows: "When a corporation has more than one shareholder, an officer/shareholder has a fiduciary duty to all shareholders. The corporation is not the personal piggy bank for any one shareholder simply because that shareholder may have a controlling interest in the corporation and is also the chief executive officer. Financial responsibilities to creditors and employees must be satisfied before distributions to shareholders take place if a corporation is to remain viable. Once the distributions are found to be possible, the distributions must be pro-rata in accordance with the percentage ownership of the capital stock of the corporation. Court ordered obligations in marital litigation should not place an ex-marital partner in the position of having to breach a corporate fiduciary obligation in order to avoid the possibility of a court finding that partner contemptuous." *Id.*

In *J.S. v. C.C.*, *supra*, 454 Mass. 665, the Massachusetts Supreme Judicial Court concluded that remand was appropriate in that case because "[t]he record

plainly reflect[ed] that the judge deemed, without giving any specific consideration to particular facts or circumstances, the father's entire income as measured for income tax purposes as available income for purposes of determining an appropriate child support order. The record also reflects, however, that at the trial itself, the parties and the judge gave virtually no consideration to the issue of how the father's pass-through income should be treated in relation to child support." Similarly to that case, the record in the present case demonstrates that the trial court looked to the defendant's entire income as measured for income tax purposes as available income for determining the alimony and child support order. The trial court did not make any findings as to the particular facts or circumstances of the S corporation of which the defendant was a shareholder. Accordingly, we conclude that remand is appropriate in the present case for a determination of what portion of the defendant's income was available income for purposes of fashioning alimony and child support orders.

### III

We turn now to the appropriate relief to be ordered based on the conclusions that we have reached. "We previously have characterized the financial orders in dissolution proceedings as resembling a mosaic, in which all the various financial components are carefully interwoven with one another. . . . Accordingly, when an appellate court reverses a trial court judgment based on an improper alimony, property distribution, or child support award, the appellate court's remand typically authorizes the trial court to reconsider all of the financial orders. . . . We also have stated, however, that [e]very improper order . . . does not necessarily merit a reconsideration of all of the trial court's financial orders. A financial order is severable when it is not in any way interdependent with other orders and is not improperly based on a factor that is linked to other factors. . . . In other words, an order is severable if its impropriety does not place the correctness of the other orders in question." (Citations omitted; internal quotation marks omitted.) *Maturo v. Maturo*, supra, 296 Conn. 124–25; see also *Misthopoulos v. Misthopoulos*, 297 Conn. 358, 389–90, 999 A.2d 721 (2010). Determining whether an order is severable from the other financial orders in a dissolution case is a highly fact bound inquiry. In both *Misthopoulos* and *Maturo*, wherein we concluded that the trial court had improperly entered certain child support orders, we remanded the case for reconsideration of the child support orders alone, despite the trial court's entry of other financial orders. *Misthopoulos v. Misthopoulos*, supra, 389–90; *Maturo v. Maturo*, supra, 124–25.

In the present case, we have concluded in parts I and II of this opinion that the trial court abused its discretion

with regard to the child support orders that it entered, and, further, that it failed to determine the defendant's available income. Because it is uncertain whether the trial court's financial awards will remain intact after reconsidering the child support orders and the defendant's available income in a manner consistent with this opinion, we conclude that the entirety of the mosaic must be refashioned. Accordingly, a new trial is required. See, e.g., *Finan v. Finan*, 287 Conn. 491, 509, 949 A.2d 468 (2008).

The judgment of the Appellate Court is affirmed and the case is remanded to that court with direction to reverse the judgment of the trial court as to the financial orders in their entirety and to remand the case to that court for a new trial in accordance with this opinion.

In this opinion the other justices concurred.

\* On October 26, 2012, this court heard oral arguments regarding the issues originally certified in this appeal. See footnote 1 of this opinion. As we discuss later in this opinion, this court subsequently ordered the parties to submit supplemental briefs addressing certain additional issues that were raised in the Appellate Court. This court heard oral arguments regarding these additional issues on January 8, 2013.

<sup>1</sup> We granted the plaintiff's petition for certification to appeal, limited to the following issues: "1. Did the Appellate Court, having determined that the trial court's child support order did not comply with the child support guidelines, properly invoke the mosaic rule to reverse all financial orders where it did not consider the defendant's challenges to the trial court's orders concerning alimony, property and attorney's fees? [and] 2. Did the Appellate Court properly determine that the trial court failed to apply the child support guidelines when the defendant sought unallocated alimony and support, and failed to file the required child support guidelines worksheet?" *Tuckman v. Tuckman*, 301 Conn. 904, 904-905, 17 A.3d 1046 (2011). As we explain more fully herein, because of our conclusion in part II of this opinion, we do not reach the first certified question.

<sup>2</sup> As we discuss in part II of this opinion, the defendant possessed a one third interest in an S corporation, Offices Limited, Inc., and a corresponding portion of the gains and losses from that corporation were allocated to the defendant as personal income for the purpose of taxation. See 26 U.S.C. § 1361 et seq.

<sup>3</sup> See footnote 1 of this opinion.

<sup>4</sup> As a result of our conclusion in parts II and III of this opinion we do not reach the second issue, which was the subject of supplemental briefing.

<sup>5</sup> General Statutes § 46b-84 provides in relevant part: "(a) Upon or subsequent to the annulment or dissolution of any marriage or the entry of a decree of legal separation or divorce, the parents of a minor child of the marriage, shall maintain the child according to their respective abilities, if the child is in need of maintenance. Any postjudgment procedure afforded by chapter 906 shall be available to secure the present and future financial interests of a party in connection with a final order for the periodic payment of child support. . . ."

"(d) In determining whether a child is in need of maintenance and, if in need, the respective abilities of the parents to provide such maintenance and the amount thereof, the court shall consider the age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child. . . ."

<sup>6</sup> The plaintiff also asserts that the Appellate Court should not have reached the merits of the defendant's claim regarding child support because she failed to file a worksheet as required by the child support guidelines or failed to rectify the record to include any worksheet she filed. After a thorough examination of the record, we agree with the Appellate Court that "the following colloquy between trial counsel for the plaintiff and the defendant allows us to conclude that the defendant submitted a guide-

lines sheet:

“[The Defendant’s Counsel]: Okay. Your Honor, the defendant did submit a child support guideline worksheet at the beginning of trial. [The plaintiff’s counsel] questioned, he couldn’t recall whether anyone submitted any. We did submit a child support guideline worksheet, which is mandated by the rules of practice, if you want the court to be responsible for that information. . . .

“[The Plaintiff’s Counsel]: . . . [I]f the defendant’s attorney tells Your Honor that he submitted it, I don’t question that. But, you know, this isn’t or wasn’t a guidelines case, and there would be a basis for deviation because of the substantial assets that you awarded to [the defendant], in any event. But, again, if all [the defendant’s counsel] is looking [for] is for you to reference that you considered his worksheet, I don’t have an issue with that.” (Internal quotation marks omitted.) *Tuckman v. Tuckman*, supra, 127 Conn. App. 424 n.2.

We further note that this conclusion makes it unnecessary to consider the plaintiff’s argument that we should follow the Appellate Court decision of *Bee v. Bee*, 79 Conn. App. 783, 788, 831 A.2d 833, cert. denied, 266 Conn. 932, 837 A.2d 805 (2003), which held that “a party who has failed to submit a child support guidelines worksheet as required by Practice Book § 25-30 (e) cannot complain of the court’s alleged failure to comply with the guidelines.” We have never followed *Bee*. We take this opportunity, however, to expressly overrule *Bee*. We emphasize that “[c]hild support orders must be based on the statutory criteria enumerated in . . . § 46b-84 of which one of the most important is the needs of the child.” (Internal quotation marks omitted.) *Loughlin v. Loughlin*, 280 Conn. 632, 655–56, 910 A.2d 963 (2006). It is incumbent upon the trial court to require child support worksheets before entering support orders. We see no rational basis to affirm trial court orders that may not comply with the “needs of the child,” simply because a trial court did not require worksheets to be filed.

<sup>7</sup> The plaintiff also claims that the fact that the trial court issued its memorandum of decision before this court decided *Maturo v. Maturo*, supra, 296 Conn. 94–95, in which this court concluded that the guidelines apply in all child support determinations, including high income cases, the trial court had no reason to think that the guidelines applied in the present case when the defendant’s proposed orders did not reference them. We disagree. This court’s decision in *Maturo* did not set forth new law, but merely used the existing statutes and regulations to determine the application of the guidelines to high income families. *Id.* Accordingly, even though this court had not decided *Maturo* at the time the trial court in the present case issued its decision, the trial court was bound by the statutes and regulations we examined in *Maturo*, and like the trial court in *Maturo*, should have considered the guidelines in fashioning the support orders for the high income family before it. Nothing in *Maturo* indicates that it should be applied prospectively only. Indeed, in *Maturo*, the judgment of the trial court with respect to the child support orders was reversed and the case was remanded to the trial court for further proceedings according to law. *Id.*, 125. Accordingly, we conclude that the Appellate Court properly applied the requirements explained in *Maturo* to the parties in the present case.

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