

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Thiessen v. Thiessen*,
2025 BCSC 150

Date: 20250130
Docket: E18356
Registry: Chilliwack

Between:

Shonra Lynne Thiessen
also known as Shonra Lynne Reynolds

Claimant

And

John Thiessen

Respondent

Before: The Honourable Madam Justice Sukstorf

Reasons for Judgment

Counsel for Ms. Reynolds:

A. E. Hayes

The Respondent, Appearing on own behalf:

J. Thiessen

Place and Dates of Trial:

Chilliwack, B.C.
June 11-14; 17-18, 2024

Place and Date of Judgment:

Chilliwack, B.C.
January 30, 2025

Table of Contents

OVERVIEW..... 6

SUMMARY OF KEY FINDINGS 6

ISSUES..... 8

CHRONOLOGY OF EVENTS / EVIDENTIARY SYNOPSIS 9

CREDIBILITY 10

 Credibility of the Parties 10

 Credibility of Ms. Reynolds 10

 Credibility of Mr. Thiessen 11

 Credibility of the Third-Party Witnesses 12

 Credibility of Mike Lariviere 12

 Credibility of Shelly Hansome 13

 Credibility of MJ Knezevic..... 14

 Summary on Credibility of Third-Party Witnesses..... 15

DIVORCE 15

 Legal Principles 15

 Proceeds from the Sale of the Corbould House 17

 Disputed Family Property 17

 Foreign Cash and Cryptocurrency: 18

 Coins from Mary: 18

 Snap-on Tools, Toolbox, and Harley Lift:..... 18

 Generators and Pressure Washers: 18

 Avion Points:..... 19

 Kal Gajoum Painting (Moulin Rouge)..... 19

 Utility Trailer:..... 19

 2013 Dodge Ram 4x4:..... 19

 2012 Ford Econovan: 19

 2017 Harley Davidson CVO:..... 20

 2017 Honda CR-V: 20

 Gold and Silver: 20

 Hockey Card and Stamp Collections: 20

 Cash from the Safe:..... 21

 Canada Pension Plan (“CPP”): 21

Business - SSSI:..... 22

DOES EITHER PARTY HAVE VALID EXCLUDED PROPERTY CLAIMS, AND IF SO, WERE ANY EXCLUSIONS LOST? 24

Law on Excluded Property 24

Excluded Property Claims 25

Mr. Thiessen’s Claim for Excluded Property 25

Ms. Reynold’s Claim for Excluded Property..... 26

Excluded Property to be assessed 27

Equity from the Sale of the Sandyhill House 27

 Evidence and Position of the Parties 28

 Analysis on the Equity from the Sandyhill House 29

 Finding on the Status of the Equity from the Sandyhill House 30

Mr. Thiessen’s Inheritance 30

 Mr. Thiessen’s Position on RV and Mortgage Payment..... 30

 Ms. Reynolds’ Position on RV and Mortgage Payment 30

 Analysis on RV and Mortgage Payment 31

 Finding on RV and Mortgage Payment..... 32

Ms. Reynolds Jewellery..... 33

 Ms. Reynolds Position 33

 Mr. Thiessen’s Position on Ms. Reynold’s Jewelry 34

 Analysis on Ms. Reynold’s Jewelry 34

 Finding on Ms. Reynolds Jewellery 34

Ms. Reynolds RRSPs and TFSAs..... 35

 Ms. Reynolds Position 35

 Law 35

 Analysis 36

 Finding on RRSPs and TFSAs 36

SHOULD THERE BE AN UNEQUAL DIVISION OF FAMILY PROPERTY OR DEBT UNDER SECTION 95 OF THE *FLA*? 37

Law on Unequal Division of Assets 37

 Ms. Reynolds Position 37

 Mr. Thiessen’s Position..... 38

 Analysis on Unequal Division of Assets 38

Occupational Rent and Debt 39

Legal Principles Governing Occupational Rent..... 39

Application to Mr. Thiessen’s Claim 41

Apportionment of Family Debt 41

Family Debt for Maintaining Family Property 41

Calculation of Credits 41

Conclusion on Occupational Rent and Credit for Maintaining Family Property
and Post Separation Debt..... 43

Conclusion on Division of Family Property 43

Summary of Assets 43

Summary of Family Debt 45

Total Settlement of Family Property 45

**IS MS. REYNOLDS ENTITLED TO SPOUSAL SUPPORT? IF SO, WHAT IS THE
APPROPRIATE QUANTUM AND DURATION?** **46**

Claimant’s Position 46

Respondent’s Position..... 48

 Legal Basis 49

 Application of Law to the Facts 49

What Quantum and Duration?..... 51

 Ms. Reynolds position..... 52

 Mr. Thiessen’s position 52

 Analysis 52

 Parties Income..... 52

 What income should be imputed to the parties? 54

 Imputing Income..... 54

 What income should be imputed to Mr. Thiessen? 54

 What income should be imputed to Ms. Reynolds? 57

 SSAG Ranges..... 58

 Duration..... 58

Lump Sum versus Periodic Payments 59

 Legal Principles..... 59

 Ms. Reynolds position 60

 Analysis..... 61

 Calculating a Lump Sum Payment 62

 Finding on whether a Lump Sum Payment is applicable..... 65

 Arrears Spousal Support..... 65

FINANCIAL BALANCING **66**

Disputed Assets 66

Occupational Rent 66

Debt 66

Miscellaneous 67

Lump Sum Spousal Payment 67

Arrears Spousal Support..... 67

Final Balance Sheet..... 67

FINAL DISTRIBUTION OF ASSETS..... 68

CANCELLATION OF INSURANCE POLICY ON MS. REYNOLDS..... 68

***SHOULD MR. THIESSEN BE FINED FOR BREACHES OF COURT ORDERS,
INCLUDING SPOUSAL SUPPORT ARREARS?*..... 69**

 Analysis..... 70

DISPOSITION..... 71

 Division of Family Property..... 71

 Family Property..... 71

 Family Debt..... 73

 Support 73

COSTS 74

OVERVIEW

[1] This matter arises from the breakdown of an 8.5-year relationship between Ms. Reynolds and Mr. Thiessen. Both parties had been previously married. There are no children of the marriage.

[2] The dispute concerns the division of family property, claims of excluded property, entitlement to spousal support, and the request for a fine for alleged breaches of court orders.

[3] While Mr. Thiessen represented himself during the trial, court records show legal counsel previously represented him earlier in these proceedings.

[4] Ms. Reynolds is 60 years old, and Mr. Thiessen is 62. Both entered the relationship with personal assets, including property from their previous marriages. Ms. Reynolds received an inheritance before the relationship, part of which she cashed or shared with Mr. Thiessen. She now claims that the remaining portion of this inheritance is excluded property. Similarly, Mr. Thiessen asserts that his excluded property includes both the proceeds from the sale of his pre-marital home, which he used as a down payment on their initial matrimonial home at Regal Parkway (the “Regal Parkway House”), and a cash inheritance he received during the relationship.

Summary of Key Findings

[5] After reviewing the evidence and applying the legal principles under the *Family Law Act*, S.B.C. 2011, c. 25 [FLA], for the reasons that follow, I make the following findings:

- a) Family property: The family property is divided equally. Notable findings include:
 - i. The RV is classified as family property, with Mr. Thiessen retaining it and crediting Ms. Reynolds \$20,000;

- ii. Given that the cryptowallet and foreign currency are assessed at \$1000 each for a total asset value of \$2,000, Mr. Thiessen must offset Ms. Reynolds \$1000; and
 - iii. Gold and silver assets are to be divided equally in kind.
- b) Excluded Property: Claims of excluded property are based on tracing evidence with the Court finding that:
- i. Mr. Thiessen retains excluded property claims for certain collectibles and his pre-relationship Dodge Ram 4x4. He does not retain exclusions for the proceeds from the sale of his pre-marital home and mother's inheritance; and
 - ii. Ms. Reynolds's retains exclusions of her inherited RRSPs and jewelry where traceable; withdrawals for family use are deemed family property.
- c) Rent and Debts: Mr. Thiessen is credited \$8,000 for the occupational rent he was required to pay after being ousted from the family property and \$29,043 for his contributions toward paying off family debts.
- d) Spousal Support:
- i. Ms. Reynolds is entitled to spousal support on both compensatory and non-compensatory grounds due to her economic disadvantage and limited self-sufficiency; and
 - ii. Ms. Reynolds is awarded a lump-sum spousal support payment of \$57,337, reflecting imputed incomes of \$120,000 for Mr. Thiessen and \$20,000 for Ms. Reynolds.
- e) Spousal Support Arrears: Mr. Thiessen owes \$12,174 in spousal support arrears, which is to be satisfied through the division of funds held in trust.

- f) Final Financial Distribution: From the \$450,941.98 held in trust, Ms. Reynolds will receive \$315,917.99, and Mr. Thiessen will receive \$135,023.99, resolving all financial claims.
- g) Life Insurance Policy: Mr. Thiessen is ordered to cancel a life insurance policy on Ms. Reynolds naming him as the beneficiary and provide proof of cancellation to Ms. Reynolds' counsel by February 28, 2025. In any event, it must be done before he receives his portion of the proceeds currently being held in trust that come from the sale of their most recent matrimonial home at Corbould Street in Chilliwack, B.C. (the "Corbould House").
- h) Fine: Mr. Thiessen breached interim spousal support orders, justifying a fine of under s. 230 of the *FLA*. However, in the resolution of all the outstanding matters, I decline to impose such a fine.

ISSUES

- [6] In coming to the findings set out above, I reviewed the following issues:
- a) What constitutes family property, and how should it be divided?
 - b) Does either party have valid excluded property claims? If so, were any exclusions lost?
 - c) Should there be an unequal division of family property or debt under s. 96 of the *FLA*?
 - d) Is Ms. Reynolds entitled to spousal support? If so, what is the appropriate quantum and duration?
 - e) Should Mr. Thiessen be fined for breaches of court orders, including spousal support arrears?

CHRONOLOGY OF EVENTS / EVIDENTIARY SYNOPSIS

[7] Ms. Reynolds and Mr. Thiessen began their relationship in April 2013, after meeting online. They quickly formed a strong bond, spending significant time together and engaging in shared activities, including camping and traveling to destinations like Whistler, the Shuswap, and Las Vegas to celebrate Ms. Reynolds 50th birthday. At the time, both parties owned separate homes. Ms. Reynolds worked in an administrative capacity at FIOSA-MIOSA and Mr. Thiessen worked in the safety industry in Northern Alberta, rotating back to Chilliwack during the weeks he was not working.

[8] In December 2013, the couple demonstrated their commitment by getting matching tattoos inscribed with “Forever”. Around the same time, Ms. Reynolds left her employment at FIOSA-MIOSA at Mr. Thiessen’s request, so she could be available during his return visits from his work in northern Alberta.

[9] By June 2014, Ms. Reynolds sold her house in Garrison (the “Garrison Home”), and moved into Mr. Thiessen’s Sandyhill home (the “Sandyhill House”), retaining the proceeds from the sale of her Garrison Home and her inheritance. The couple became engaged in October 2014.

[10] In April 2015, the parties sold the Sandyhill House and used the proceeds from the sale as the down payment to purchase the Regal Parkway House. They married in June 2015 and lived in the Regal Parkway Home until selling it in April 2018. They used the proceeds to purchase the Corbould House and to pay down \$100,000 in joint debt.

[11] Beginning in 2015 or 2016, the couple began performing building maintenance and renovations under Mr. Thiessen’s previously incorporated business, Super Seven Safety Inc. (“SSSI”). The business was very successful and evolved into them doing renovations.

[12] During their relationship, the parties jointly acquired several assets, including a Honda CR-V, an Econovan, and a Harley Davidson motorcycle. Ms. Reynolds

testified that she gifted Mr. Thiessen \$24,000 to purchase the first Harley, a claim he denies. Both parties agree that Mr. Thiessen later traded in the first Harley, allegedly purchased with Ms. Reynolds's gift, toward the \$48,000 purchase of his new Harley Davidson CVO, which is now being considered in the division of property.

[13] In 2021, Mr. Thiessen inherited funds following his mother's passing. He testified that a portion of the inheritance was used to pay down the joint mortgage, with the remainder financing the purchase of a 2021 RV trailer.

[14] The relationship ended in September 2022 following a dispute over filing SSSI's annual report. Despite brief unsuccessful efforts at reconciliation, the parties' separation date remains September 3, 2022. Ms. Reynolds filed a notice of family claim, resulting in a consent order for interim spousal support of \$1,000 per month, with Mr. Thiessen assuming responsibility for household expenses.

CREDIBILITY

[15] In family law proceedings, credibility is often central to the court's assessment of the evidence presented by each party. Credibility analysis, as outlined in *Bradshaw v. Stenner*, 2010 BCSC 1398, aff'd 2012 BCCA 296, is nuanced and fact-specific, requiring careful examination of various factors to assess the trustworthiness and accuracy of witness testimony.

Credibility of the Parties

Credibility of Ms. Reynolds

[16] Ms. Reynolds provided consistent and credible testimony regarding her financial contributions during the relationship, including her \$30,000 payment toward Mr. Thiessen's debt to his mother and \$24,000 toward the purchase of a Harley Davidson motorcycle. She described these as shared investments within their financial partnership. Her willingness to leave her job, at Mr. Thiessen's request, to support his rotational work schedule further underscored her commitment to their shared life.

[17] In her testimony, I found Ms. Reynolds to be straightforward and candid, even when addressing unflattering events, such as the thrown pickle jar and toothpicks in locks incidents. These admissions demonstrated her willingness to present a balanced account, strengthening her credibility. Her ability to recall specific dates, financial figures, and transaction details, including mortgage balances and sale proceeds, added reliability to her evidence.

[18] During cross-examination, Ms. Reynolds consistently depicted the couple as financially interdependent, with a shared approach to assets and household expenses. Her testimony regarding sacrifices she made to support Mr. Thiessen, both financially and personally, was sincere and aligned with her actions during the relationship.

[19] Overall, Ms. Reynolds' testimony was consistent, balanced, and supported by plausible evidence, providing a reliable foundation for the court's findings.

Credibility of Mr. Thiessen

[20] Mr. Thiessen presented his testimony confidently and highlighted his contributions to the relationship. However, he often downplayed Ms. Reynolds' contributions, framing his role more favorably. He acknowledged Ms. Reynolds' strong memory and deferred to her recollections in some instances, but his overall tone at times appeared defensive and dismissive, suggesting a tendency to minimize her involvement.

[21] Mr. Thiessen's credibility was undermined by inconsistencies and late claims. For example, he introduced, for the first time at trial, the assertion that he had saved significant cash over a decade, using it to purchase assets like Ms. Reynolds' CR-V and his Harley Davidson motorcycle. This claim lacked supporting evidence and appeared to attempt to explain his capacity for large purchases while avoiding disclosure of his income.

[22] Mr. Thiessen's contradictory statements about repaying his mother's loan also raised concerns. While he claimed to have repaid the loan independently, both

Ms. Reynolds and a witness, Mr. Lariviere, testified that Ms. Reynolds contributed \$30,000 toward the repayment. Mr. Lariviere confirmed that Mr. Thiessen had acknowledged this contribution to him, contradicting Mr. Thiessen's denial.

[23] Mr. Thiessen's breaches of the consent order, including unauthorized entries into the Corbould House, further undermined his credibility. His explanation that he entered only to use the bathroom was unconvincing, particularly given the photo evidence showing he retrieved items from the kitchen and garage.

[24] Mr. Thiessen's testimony about his finances and taxes was inconsistent. He alternated between claiming ignorance of financial details and offering detailed explanations when it was advantageous. He often attributed gaps in his testimony to alleged oversights by his lawyer or accountant, deflecting responsibility. For instance, he attributed his failure to initially classify the RV as excluded to his lawyer's suggestions, rather than his own oversight.

[25] Finally, Mr. Thiessen introduced new evidence at trial, including a \$15,000 loan purportedly used to fund his trip to Thailand. This claim was unsupported by prior disclosure, despite court orders requiring all relevant documents. His pattern of introducing new claims late in the proceedings further erodes the reliability of his testimony.

Credibility of the Third-Party Witnesses

Credibility of Mike Lariviere

[26] Mr. Mike Lariviere, a mutual friend of both parties, testified with consistent impartiality, showing no personal bias. Mr. Lariviere testified that he met Mr. Thiessen and Ms. Reynolds through their shared motorcycle group, and their relationship grew into a close friendship. They participated in many different motorcycle trips and even became part of each other's COVID bubble, regularly sharing dinners several nights a week over the years, reflecting the strength of their relationship.

[27] Mr. Lariviere testified that Mr. Thiessen and Ms. Reynolds undertook extensive renovations for him, first at his condo, where they upgraded the kitchen and bathrooms, and later at his current home. The house renovations included an upstairs kitchen and a basement suite for his daughter. He explained that Mr. Thiessen managed most of the demolition, handled invoicing and estimates, and oversaw the project. Cory, one of SSSI's employees, performed much of the physical labor, while Ms. Reynolds worked daily on painting, cleanup, and other supportive tasks.

[28] Mr. Lariviere further testified that he paid approximately \$30,000 for the condo renovations and between \$45,000 to \$50,000 for the house renovations. He noted that he paid most of these costs in cash. Although he received a few invoices for smaller amounts, such as \$5,000, he explained that due to their close friendship, he did not question this informal payment approach.

[29] I found Mr. Lariviere to be measured in his descriptions, providing an even-handed view of each party's contributions to the relationship and his own efforts to help them reconcile after Mr. Thiessen left the home. I found that his testimony aligned closely with other evidence, particularly in detailing Mr. Thiessen's frequent cash transactions and the couple's significant joint purchases. His observations about Mr. Thiessen's use of cash matched Ms. Reynolds' accounts of how they managed their household and business expenses.

[30] Under cross-examination, Mr. Lariviere's recollection remained consistent, including specific details about incidents like a camping trip and a conversation at the Corbould House, supporting his reliability as a witness with accurate recall. Overall, Mr. Lariviere's credible and objective testimony aligns well with independently verified facts.

Credibility of Shelly Hansome

[31] Ms. Hansome, a long-time friend of Ms. Reynolds, provided testimony that corroborated details of Ms. Reynolds' inheritance and financial contributions she made for joint purchases, aligning with both Ms. Reynolds' statements and

supporting financial records. She told the court that Ms. Reynolds gave Mr. Thiessen \$30,000 to settle his mother's debt and later another \$24K for the purchase of a Harley after Ms. Reynolds sold a property she owned in Fiji. It was clear to the court that many of the observations she provided in her testimony were hearsay and based on her conversations with Ms. Reynolds, as she did not directly witness the incidents or financial transactions. Consequently, I am not able to provide any weight to these details.

[32] Nonetheless, although closely connected to Ms. Reynolds, I found Ms. Hansome focused on her own factual recollections over personal opinions about the relationship, reducing the risk of bias. Her testimony remained steady across direct and cross-examinations, with consistent accounts of Ms. Reynolds' contributions to both personal and business finances, including debt repayment, adding reliability to her statements.

[33] Ms. Hansome's account of Ms. Reynolds' financial support and sacrifices in aid of Mr. Thiessen appears plausible and substantiated by financial documentation. In sum, Ms. Hansome's testimony, while provided by a close friend, is grounded in consistent factual details and enhanced the credibility of Ms. Reynolds' account regarding her financial support within the relationship.

Credibility of MJ Knezevic

[34] Ms. Knezevic is a business manager and an acquaintance of both parties having met them through the Harley Owners Group (HOG). She serves as the dealership liaison for the HOG. She told the court that she facilitated new owners with access to meetings, and now serves as part of the Executive Committee, assisting with fundraisers and other activities.

[35] She provided testimony corroborating Mr. Thiessen's cash spending habits and described conversations with him regarding personal matters. Her account aligns with other evidence about Mr. Thiessen's financial practices as observed by other witnesses.

[36] Although connected to both parties professionally, Ms. Knezevic demonstrated neutrality with no apparent bias, as her testimony focused solely on factual events and her direct observations. She maintained consistency across direct and cross-examinations, recounting details of her interactions with Mr. Thiessen, including his remarks about the separation and comments concerning Ms. Reynolds. She did not shift her account, which supports her reliability as a witness.

[37] Ms. Knezevic's testimony regarding Mr. Thiessen's financial habits, such as cash transactions at the Harley dealership, aligns with the parties' documented financial interactions, making her account plausible. Her demeanor was factual and professional, lending further credibility to her neutral observations. In sum, Ms. Knezevic's testimony, centered on specific business interactions and objective observations, aligns with other credible evidence, reinforcing the reliability of her account.

Summary on Credibility of Third-Party Witnesses

[38] All three witnesses provided credible testimony supporting key aspects of the parties' financial and relational dynamics. While Mr. Lariviere and Ms. Knezevic appeared the least influenced by personal connection, Ms. Hansome's testimony, though provided as a friend, was consistent and corroborated by external evidence. Together, their accounts substantiate critical elements of the case.

DIVORCE

[39] While I was satisfied that a divorce should be granted, the parties were, at the time of final submissions, awaiting a clearance certificate from Ottawa, a prerequisite for the issuance of a certificate of pleadings by the registrar. Since that time, the parties have submitted a desk order for a divorce which has been granted.

Legal Principles

[40] Justice G.P. Weatherill, in *Lamoureux v. Hedquist*, 2023 BCSC 1539 at para. 135, explained that the *FLA* presumes each spouse is entitled to an equal, undivided one-half share of family property and debt upon the breakdown of a

marriage-like relationship. He outlined the principles for property division, referencing ss. 81, 84, 85, 87, and 95 of the *FLA*, summarized in *Banh v. Chrysler*, 2022 BCCA 74 at para. 23, as follows:

- a) All real and personal property that is owned by at least one spouse at the time of separation is family property unless it is excluded property: ss. 84(1), 85.
- b) Family property includes a share or an interest in a corporation, partnership, business or a venture: s. 84(2)(a).
- c) Family property includes any increase in the value of excluded property since the later of the date the relationship began or the date the excluded property was acquired: s. 84(2)(g).
- d) Excluded property includes property acquired by a party before the relationship began, inheritances, gifts from a third party and any property derived from such property: s. 85(1).
- e) Excluded property also includes property derived from excluded property or the disposition of excluded property: s. 85(1)(g).
- f) Unless an agreement or order provides otherwise, the value of family property must be based on its fair market value at the date of trial: s. 87.
- g) Family property is to be divided equally unless it would be “significantly unfair” to do so: ss. 81 and 95.

[41] Excluded property is not to be the subject of division unless it would be “significantly unfair” not to divide it: s. 96. The *FLA* provides a framework for classifying and dividing property upon separation. Section 81 grants each spouse an undivided half interest in family property, while s. 84(1) defines family property broadly to include nearly all property acquired during the relationship, regardless of legal ownership. Excluded property, outlined in s. 85(1), includes assets owned before the relationship or acquired through inheritance or gifts, provided they can be traced.

[42] Section 85(1)(g) allows property derived from excluded property to retain its excluded status if properly traceable. However, any increase in value during the relationship is family property under s. 84(2)(g). Section 87 directs the valuation of family property to its fair market value at the date of agreement or court hearing.

[43] The presumption of equal division under s. 81 may be altered through agreement or court order where significant unfairness would result from equal division.

[44] The parties agree that most assets owned prior to their relationship or acquired during the relationship have already been divided. While the trial included extensive discussion about many of the couple's assets and their contributions to the relationship, this decision only addresses those items of property still in dispute, except where other assets are relevant to the findings.

[45] The parties recognize that before the relationship, Mr. Thiessen had tools, and stamp and hockey card collections and that he should keep these items. However, there is disagreement on how much was added to the value of these collections during the relationship.

[46] The first step in the analysis is to identify and value the family property to be divided.

Proceeds from the Sale of the Corbould House

[47] The Corbould House has been sold, with each party already receiving \$100,000 from the proceeds. At the time of trial, \$450,941.98 remains in trust with Baker Newby Law Firm, to be distributed based on the final net set-off. Subject to any adjustments, each party is entitled to an initial equal division of \$225,470.99, representing half of the remaining funds.

Disputed Family Property

[48] Ms. Reynolds asserts that the following property should be classified as family property and divided equally, based on the valuations set out in her 2024 financial statement. Mr. Thiessen did not provide many alternative reliable valuations other than facts he asserted or original receipts. Accordingly, I relied on all the available evidence to divide the disputed family property as fairly as possible.

Foreign Cash and Cryptocurrency:

[49] In my view, the division of foreign cash and the cryptowallet is complicated by insufficient evidence regarding their precise values, compounded by the volatility of cryptocurrency and fluctuating exchange rates. Mr. Thiessen proposed valuing both assets at approximately \$1,000 each, to a total of \$2,000, a valuation that Ms. Reynolds did not contest or seek to further substantiate through a request for additional disclosure or appraisal. Given these circumstances, the Court accepts the proposed valuation and orders that the total value of \$2,000 be divided equally, with Mr. Thiessen offsetting Ms. Reynolds accordingly.

Coins from Mary:

[50] These coins are valued at \$2,000 and are in Ms. Reynolds' possession. Both parties agree they are family property. Ms. Reynolds will pay Mr. Thiessen \$1,000 to equalize their value.

Snap-on Tools, Toolbox, and Harley Lift:

[51] Ms. Reynolds has appraised the Snap-on tools, toolbox, and Harley lift collectively at \$20,000 and is seeking an equalization payment of \$10,000 to allow Mr. Thiessen to retain these items. Mr. Thiessen contests the valuation of the toolbox, presenting evidence that he originally purchased it for \$3,500, a figure markedly lower than Ms. Reynolds' estimate for the toolbox alone.

[52] In the absence of additional corroborative or precise valuation evidence from either party, the Court accepts Mr. Thiessen's evidence regarding the toolbox valuation. Considering the remaining items: the Snap-on tools and the Harley lift, and based on the available evidence, the Court assigns a combined value of \$13,500 to all these assets. Accordingly, Mr. Thiessen is ordered to offset Ms. Reynolds by \$6,750.

Generators and Pressure Washers:

[53] Ms. Reynolds values the generators and pressure washers at \$5,000, Ms. Reynolds seeks an offset of \$2,500. Despite arguing that they were merely

replacements, Mr. Thiessen provided no counter valuation. Mr. Thiessen must offset Ms. Reynolds by \$2,500.

Avion Points:

[54] There are 425,000 Avion points valued at \$4,250 under Mr. Thiessen's control. I find that the points are family property. Mr. Thiessen must offset \$2,125 in favour of Ms. Reynolds.

Kal Gajoum Painting (Moulin Rouge).

[55] During the trial, it was determined that only one painting was family property. The parties acquired this Kal Gajoum painting jointly in 2014 for \$2,800. It is part of a set owned by Mr. Thiessen. Ms. Reynolds seeks half of its value. Mr. Thiessen will keep the painting and I credit Ms. Reynolds \$1,400.

Utility Trailer:

[56] The utility trailer was purchased used for \$500.00 for SSSI. There is no evidence before me to suggest that it is now worth more than they originally paid. Mr. Thiessen keeps the trailer and must offset Ms. Reynolds \$250.00 for half the value.

2013 Dodge Ram 4x4:

[57] Mr. Thiessen purchased the 2013 Dodge Ram before the parties' relationship. The evidence shows the truck was registered jointly for estate planning purposes, not as a gift. Ms. Reynolds provided no evidence that she ever drove the vehicle or that it was used as family property. I find it is excluded property and not subject to division.

2012 Ford Econovan:

[58] The parties purchased the Econovan for use in SSSI for \$9,000. This is the same amount that Ms. Reynold asks the court to value it at today. It is currently 12 years old. Mr. Thiessen argues that it is not worth more that \$5,000. I accept that

there is depreciation that Ms. Reynolds has not accounted for. Mr. Thiessen will keep the Econovan but must offset Ms. Reynolds by \$2,500.

2017 Harley Davidson CVO:

[59] The 2017 Harley Davidson was purchased during the relationship for \$48,000. Based on the evidence, it is family property with an estimated Kelly Blue Book value of \$32,925. Mr. Thiessen will keep the Harley but must offset Ms. Reynolds by \$16,462.

2017 Honda CR-V:

[60] Ms. Reynolds seeks to retain her CR-V, which currently holds a Kelly Blue Book value of \$29,494. Ms. Reynolds will retain the vehicle upon offsetting \$14,747 in favour of Mr. Thiessen.

Gold and Silver:

[61] The parties acquired 74 grams of gold and 22 ounces of silver during their relationship. Ms. Reynolds currently has possession of these items and has already sold \$1,500 worth of gold. Ms. Reynolds has not clarified whether she intends to transfer 37 grams of gold directly to Mr. Thiessen or pay its equivalent value, nor has she specified their valuation as of the trial date. The photos suggest the gold bars are divisible. To avoid complications from market fluctuations, the gold and silver should be physically divided equally and distributed in their current form, with Ms. Reynolds crediting \$750 to Mr. Thiessen for the previously sold gold.

Hockey Card and Stamp Collections:

[62] Ms. Reynolds testified that approximately one-quarter of Mr. Thiessen's hockey card collection, including some exceptional-quality cards, was acquired during their relationship. She estimated the combined value of the hockey card and stamp collections at \$50,000 to \$60,000, a figure corroborated by Mike Lariviere, who confirmed they were insured for \$50,000. I value the portion of the collections acquired during the relationship at \$12,500 and credit Ms. Reynolds \$6,250.

Cash from the Safe:

[63] Ms. Reynolds alleges that Mr. Thiessen removed \$12,000 in cash from the safe after their separation and seeks compensation for half, claiming it was family property. She presented a photo dated September 20, 2022, showing cash envelopes in the safe, including ones labeled "Richard \$7,000" and "Ralph \$5,000". These labels suggest the funds may have been tied to work projects.

[64] Mr. Thiessen testified that he used the cash to make a \$17,750 payment on their Visa bill. However, Ms. Reynolds argued that the Ms. Reynolds' took the cash after Visa payments were made in August and early September 2022, implying it could not have been used for that purpose. Upon reviewing the evidence, I find that a payment of approximately \$17,000 was made on or about October 19, 2022, to the SSSI line of credit rather than the Visa. The lack of corresponding bank withdrawals strongly suggests the payment was made in cash, supporting Mr. Thiessen's claim that funds from the safe were used for debt repayment.

[65] The evidence demonstrates a consistent mingling of business and family funds during the relationship, and both parties share responsibility for matrimonial debts. While Mr. Thiessen inaccurately described the debt he repaid, the payment to the line of credit and the work-related labels on the envelopes support his explanation.

[66] In the absence of clear evidence that Mr. Thiessen misused or did not apply the cash from the safe to joint obligations, I decline to order a division of this amount.

Canada Pension Plan ("CPP"):

[67] Both parties have contributed to the CPP and appear to already be receiving payments. Although Ms. Reynolds indicates that there is an inequity in what they earned, I have been provided no evidence nor substantive representations on what the inequity is or how this could be equalized within the CPP structure itself. I find it is appropriate that each party retains their respective pension entitlements.

Business - SSSI:

[68] Mr. Thiessen incorporated SSSI as a sole-owned business before the relationship. This ownership remained unchanged throughout the relationship, and the evidence presented at trial suggests that Mr. Thiessen continues to entirely own the business.

[69] After becoming married and following a period of unemployment that affected both parties, they began using SSSI for contractual maintenance work, which later expanded into renovation projects. The evidence establishes that Ms. Reynolds contributed to SSSI's operations through unpaid labor and support. Testimony from Mr. Lariviere confirms that Ms. Reynolds worked alongside Mr. Thiessen on two projects he contracted to SSSI. On these projects, she performed tasks such as painting, cleaning, and other supportive roles, for which she received no direct compensation. However, her involvement in the business decreased significantly in the later years of the marriage as their relationship deteriorated.

[70] While Ms. Reynolds seeks compensation for a portion of the value of SSSI, because the business is not a marketable entity and thus has not increased in value during the relationship, her contributions to the business are more appropriately considered in the context of her entitlement to spousal support, rather than as creating an interest in SSSI. Spousal support addresses the financial and non-financial contributions made by one spouse to the success or earning capacity of the other, including unpaid labor or support provided during the relationship.

[71] The value of a company is determined by both its tangible and intangible assets. Aside from the tangible assets acquired during the relationship for use in the business—such as the Econovan, trailer, and generators—Ms. Reynolds has offered no evidence to establish the value of SSSI or to suggest an approach to its valuation. The court has already divided these tangible assets equally as part of the division of family property. The onus rests on Ms. Reynolds to provide sufficient evidence to substantiate her claim to a share of SSSI or its intangible value.

[72] In assessing the intangible assets, it is noted that SSSI is a small contracting company whose success depends almost entirely on Mr. Thiessen's labour, skills, and reputation in the industry. While it briefly employed another worker, SSSI remains predominantly an owner-operated business. Company value is typically assessed based on its net worth and what a third party might reasonably pay to acquire it.

[73] A key consideration in this context is goodwill, which can be either commercial or personal in nature. Commercial goodwill refers to the intangible value of a business that extends beyond its tangible assets and provides a purchaser with a benefit simply through acquisition. It represents the economic advantages a buyer would gain from acquiring an established enterprise rather than starting a new one. By contrast, personal goodwill is linked to an individual's reputation, skills, and client relationships, making it inherently non-transferable. Personal goodwill benefits the individual and not the business itself: see *T.N. v. J.C.N.*, 2015 BCSC 439 at para. 86.

[74] The evidence supports the conclusion that any goodwill associated with SSSI is personal to Mr. Thiessen and inseparable from his skills and reputation. As such, it does not constitute divisible family property under the *FLA*. SSSI's project-based income, which fluctuates significantly over time, further complicates assigning a consistent value.

[75] Beyond the tangible assets already divided, there is no evidence of additional significant assets or transferable goodwill that would materially increase SSSI's value. Ms. Reynolds has not provided expert financial reports or other evidence to suggest the existence of additional value or a methodology for its calculation.

[76] Based on these considerations, I find that the value of SSSI lies predominantly in Mr. Thiessen's personal contributions, and the business itself is not a marketable entity. Accordingly, the valuation of SSSI is limited to its tangible assets, with recognition that its earning potential remains inherently tied to Mr. Thiessen's ongoing involvement. Ms. Reynolds' contributions to SSSI during the

relationship, while significant, are better addressed as a factor in spousal support, reflecting her unpaid labor and support in enhancing Mr. Thiessen's earning capacity.

Does either party have valid excluded property claims, and if so, were any exclusions lost?

Law on Excluded Property

[77] Section 85 of the *FLA* identifies property that is excluded from family property, such as property acquired before the relationship, inheritances, and compensation for personal injury, provided it is not mixed with family finances. Pursuant to s. 85(1) of the *FLA*, the following is excluded from family property:

- (a) property acquired by a spouse before the relationship between the spouses began;
- (b) inheritances to a spouse;
- ...
- (c) a settlement or an award of damages to a spouse as compensation for injury or loss, unless the settlement or award represents compensation for
 - (i) loss to both spouses, or
 - (ii) lost income of a spouse;
- (d) money paid or payable under an insurance policy, other than a policy respecting property, except any portion that represents compensation for
 - (i) loss to both spouses, or
 - (ii) lost income of a spouse;

[78] Excluded property remains separate unless its value increases during the relationship, in which case the increase is treated as family property (s. 84(2)(g)). Property derived from excluded property can also remain excluded through tracing (s. 85(1)(g)).

[79] Family property and debt are generally valued at fair market value on the date of the court hearing (s. 87).

[80] Recent amendments to the *FLA* under Bill 17, *Family Law Amendment Act*, 4th Sess., 42nd Parliament, British Columbia, 2023 (assented to May 11, 2023),

clarify that excluded property remains excluded even if ownership is transferred to the other spouse. However, these rules apply only to cases initiated after May 2023. For pre-existing proceedings, the legal effect of such transfers remains governed by earlier interpretations, such as *Venables v. Venables*, 2019 BCCA 281, where the court emphasized the importance of the transferring spouse's intention in determining whether excluded property becomes family property.

[81] Under the pre-Bill 17 framework, the common law principles of resulting trust and the presumption of advancement still apply. The presumption of advancement assumes a transfer between spouses is a gift unless proven otherwise. It can be rebutted with evidence demonstrating a different intent, such as keeping the property excluded.

[82] To establish excluded property, a spouse must show on a balance of probabilities that the property meets the criteria under s. 85. The standard of proof is reasonable likelihood rather than absolute certainty. Evidence of intent and the absence of mingling with family finances are key considerations.

[83] Typically, family property is divided equally unless an equal division would result in significant unfairness. Family debts are also divided similarly. The court ensures the division is implemented fairly, often requiring one spouse to transfer money or property to the other.

[84] Finally, spouses generally have two years from the date of separation or divorce to apply for property division, though mediation pauses this time limit.

Excluded Property Claims

Mr. Thiessen's Claim for Excluded Property

[85] In his counterclaim filed on February 8, 2023, Mr. Thiessen claimed the following as excluded property:

- a) \$160,318 in equity from the sale of the Sandyhill House;

- b) \$27,000 from his mother's inheritance applied to the Corbould House mortgage;
- c) Hockey card and stamp collections;
- d) Chinese watercolour paintings; and
- e) A 2013 Dodge Ram 4x4 truck.

[86] During their relationship, Mr. Thiessen inherited approximately \$75,000 following his mother's death. He testified that he used \$50,000 to purchase the RV Trailer, while \$27,000 went toward the Corbould House mortgage.

[87] Notably, in his initial filings, Mr. Thiessen only claimed the \$27,000 he put toward the mortgage and did not originally claim the RV. He raised this claim during the trial for the first time.

Ms. Reynold's Claim for Excluded Property

[88] Ms. Reynolds claims the following as excluded property:

- a) Remaining RRSPs inherited from her mother;
- b) Jewelry inherited from her mother; and
- c) A Tax-Free Savings Account (TFSA).

[89] Before her relationship with Mr. Thiessen, Ms. Reynolds owned several significant assets, including a \$150,000 RRSP, \$37,394.19 in net sale proceeds from her Garrison Home, inherited jewelry, a property in Fiji, savings, and a 2007 Honda Civic. She had no debts at that time.

[90] Upon her mother's passing, Ms. Reynolds inherited her mother's RRSP and jewelry. She seeks recognition of these assets as excluded property under s. 85 of the *FLA*.

Excluded Property to be assessed

[91] I have already addressed Mr. Thiessen's claims regarding his Dodge truck and his hockey and stamp collection. There was no significant dispute at trial regarding the Chinese watercolor and Kal Gajoum paintings, except for the Moulin Rouge painting, which I have determined to be family property.

[92] The parties' remaining dispute centers around the following:

- a) The down payment Mr. Thiessen made for the purchase of the parties' Regal Parkway House that came from the proceeds of the sale the Sandyhill House;
- b) Mr. Thiessen's inheritance of approximately \$77,000, received after the death of his mother. He claims that from that inheritance he used:
 - i. \$27,000 to pay down the parties' joint mortgage; and
 - ii. the remaining \$50,000 to purchase the 2021 RV Trailer in 2022
- c) Ms. Reynolds Inherited Jewellery, RRSPs and TFSA.

Equity from the Sale of the Sandyhill House

[93] Mr. Thiessen purchased the Sandyhill House before the relationship with the benefit of a \$90,000 loan from his mother and was its sole owner. In June 2014, Ms. Reynolds moved into the Sandyhill House after selling her own property. The couple became engaged in October 2014 and began merging their assets, agreeing to sell the Sandyhill House to purchase a shared home.

[94] The parties purchased the Regal Parkway House in April 2015 for \$795,000 and married shortly after, on June 7, 2015. When they submitted their original offer, they made an initial deposit of \$40,000, though the exact source of this deposit remains unclear. Ms. Reynolds admitted she did not contribute to the down payment.

[95] Mr. Thiessen later contributed an additional \$132,311.64 to the down payment, which was directly sourced from the sale proceeds and equity of the Sandyhill House, an excluded property he owned prior to the relationship. This is consistent with the revised order to pay he submitted as evidence.

[96] Mr. Thiessen claims as his excluded property, both the \$40,000 initial deposit and the \$132,311.64 sourced from the sale of the Sandyhill House. However, there is no evidence directly tracing the \$40,000 deposit to his excluded property. When the Regal Parkway House was sold, \$395,722 of the sale proceeds were directly traceable to the Corbould House, the parties' final matrimonial home before their separation.

Evidence and Position of the Parties

[97] Ms. Reynolds testified that the parties agreed to sell their individual homes to purchase a shared home. Fulfilling Mr. Thiessen's wish for a house with a view of Mount Baker, they jointly purchased the Regal Parkway House in Abbotsford, with no discussion about individual contributions.

[98] Although she did not contribute to the down payment for the Regal Parkway House, the evidence suggests that Ms. Reynolds provided \$30,000 to Mr. Thiessen to help repay the \$90,000 loan that Mr. Thiessen had received from his mother to purchase the Sandyhill House. Further, Ms. Reynolds confirmed she was added to the new mortgage of the Regal Parkway House and registered as a joint tenant without specifically requesting it.

[99] The couple lived at the Regal Parkway House until April 2018, during which time they accumulated significant debt from renovations while neither was earning an income. In 2015, Ms. Reynolds withdrew \$30,000 from her RRSP to cover family expenses. They sold the Regal Parkway House for \$1,190,000, and used the proceeds as a down payment for the Corbould House in Chilliwack, purchased for \$634,000. They also allocated approximately \$100,000 of the proceeds of the Regal Parkway House to pay off credit card debt.

Analysis on the Equity from the Sandyhill House

[100] As explained above, the presumption of advancement applies to assets transferred into joint ownership, requiring the contributor to prove that they did not intend a gift: *Pecore v. Pecore*, 2007 SCC 17.

[101] Mr. Thiessen argues that the down payment on the Regal Parkway House, derived from proceeds of the Sandyhill House, is excluded property. He relies on evidence tracing these funds and cases like *P.G. v. D.G.*, 2015 BCSC 1454, which confirm that pre-marital contributions retain their excluded status if adequately traced. However, the burden rested on Mr. Thiessen to rebut the presumption of advancement and prove he did not intend the funds as a gift to the marriage.

[102] Ms. Reynolds testified that the couple intended the Regal Parkway House to be a shared matrimonial home, and there was no discussion about separate ownership. Mr. Thiessen added Ms. Reynolds name to the mortgage and title as a joint tenant. This is a strong indication of shared ownership. Mr. Thiessen acknowledged he intended to add Ms. Reynolds' name and expected a reciprocal transfer from her RRSPs, which never occurred. I find that the \$30,000 Ms. Reynolds gave to Mr. Thiessen to help repay the \$90,000 loan from his mother for his purchase of the Sandyhill House, indirectly contributed to the excluded funds used for the down payment.

[103] The evidence also demonstrates that both parties pooled resources to renovate and maintain the Regal Parkway House, including Ms. Reynolds withdrawing \$30,000 from her RRSP to pay for family expenses and contributions toward shared debts.

[104] Although Mr. Thiessen traced the down payment to his excluded property, he failed to provide clear evidence that he intended to preserve its excluded status and to rebut the presumption of advancement. His actions, including adding Ms. Reynolds to the title and mortgage, and their shared occupancy, enjoyment and joint renovation of the homes are consistent with an intent to share the property

within the relationship. I have been provided with no documentation or other evidence to suggest that the funds were to remain separate.

Finding on the Status of the Equity from the Sandyhill House

[105] Mr. Thiessen fails to rebut the presumption of advancement by establishing that he intended the down payment to remain excluded property. I find that the down payment became family property. Moreover, no significant unfairness under s. 96 arises from treating it as family property, given the parties' pooled resources and shared financial obligations during the relationship.

Mr. Thiessen's Inheritance

[106] Mr. Thiessen testified that he received \$77,000 from his mother's inheritance in April 2021, using \$27,000 to pay down the mortgage on the Corbould House and \$50,000 to purchase an RV Trailer.

Mr. Thiessen's Position on RV and Mortgage Payment

[107] Mr. Thiessen testified that he purchased the RV Trailer for \$50,000 in cash and transferred ownership into joint names, allegedly to provide Ms. Reynolds with survivorship rights. He claimed the funds came from his mother's inheritance but offered limited documentation to support this. Mr. Thiessen testified that after receiving his inheritance, he deposited it into the bank and later withdrew it in cash. Under cross-examination, Mr. Thiessen acknowledged storing cash in a safe and elsewhere, leaving it unclear whether the funds for the RV purchase were from the inheritance or other cash reserves.

Ms. Reynolds' Position on RV and Mortgage Payment

[108] Ms. Reynolds testified that the 2021 Grand Design RV was purchased in early 2022 for cash, which she witnessed being counted. The RV was jointly registered in both parties' names and intended for shared family use, including potential living arrangements during planned home renovations. She emphasized that the RV was used for family vacations and argued it is a family asset, citing its joint registration and Mr. Thiessen's initial failure to list it as excluded property in his

February 2023 Counterclaim suggesting this omission was more than an afterthought.

[109] While Ms. Reynolds acknowledged Mr. Thiessen’s inheritance, she raised significant doubts about whether it funded the RV purchase or mortgage payments. She highlighted his routine practice of co-mingling cash from various sources—business income, personal savings, and inheritance—which he frequently stored in a safe for large purchases. She testified that while some of the inheritance may have been part of the cash in the safe, it is impossible to trace whether it specifically funded the RV or the mortgage. Ms. Reynolds contends that the lack of evidence linking the RV purchase to the inheritance, combined with the co-mingling of funds for an asset intended for shared use, supports classifying the RV as a family asset.

Analysis on RV and Mortgage Payment

[110] As mentioned above, inherited property is excluded from family property if the inheriting spouse can clearly trace its source. If the property is co-mingled, converted, or jointly registered, the presumption of advancement applies, treating the transfer as a gift unless rebutted by evidence of intent to exclude it: *Pecore*.

[111] Mr. Thiessen claims he used \$50,000 of his inheritance to purchase the RV, which he jointly registered with Ms. Reynolds. However, he provided minimal documentation to trace the funds to his inheritance, and his financial statement, affirmed in January 2023, made no mention of the RV or any excluded property. In contrast, he specifically claimed the \$27,000 mortgage payment from his inheritance as an exclusion. This omission undermines his claim that the RV is excluded property.

[112] The RV’s joint registration suggests the parties intended it to be a shared family asset. While Mr. Thiessen argued this was for survivorship purposes, he provided no corroborating evidence. The evidence before the court is that both parties used the RV for trips, further reinforcing its characterization as family property.

[113] Mr. Thiessen claims to have used \$27,000 of his inheritance to pay down the mortgage on the Corbould House, the family's matrimonial home. However, his handling of the inheritance and the circumstances surrounding the payment undermine his claim that the funds retained their excluded status.

[114] Evidence indicates that Mr. Thiessen deposited his inheritance into a bank account and later withdrew it in cash, which he stored in a safe alongside other cash reserves derived from various sources, including business income and personal savings. This habitual co-mingling of funds makes it impossible to clearly trace the \$27,000 mortgage payment back to his inheritance. The lack of documentation linking the payment to the inheritance further weakens his claim.

[115] Additionally, the \$27,000 was used to pay down the mortgage on a jointly owned family home, a transaction that inherently benefited both parties. This supports the presumption of advancement, which assumes the contribution was intended as a gift to the marriage unless proven otherwise. Mr. Thiessen provided no evidence to rebut this presumption or to demonstrate that he intended the funds to remain excluded.

[116] As a result, the \$27,000 mortgage payment is not sufficiently traceable to Mr. Thiessen's inheritance and has lost its excluded status, becoming family property subject to division.

Finding on RV and Mortgage Payment

[117] Based on the evidence and the legal principles governing excluded property:

1. Mr. Thiessen has not met the burden of proof required to establish that the \$50,000 used to purchase the RV was directly traceable to his inheritance.
2. The joint registration of the RV triggers the presumption of advancement, which Mr. Thiessen has not successfully rebutted.
3. The parties treated the RV as a family asset, as evidenced by its joint registration, shared use, and the absence of any prior exclusion claim.

4. Mr. Thiessen has failed to provide clear and convincing evidence that the \$27,000 mortgage payment was sourced directly from his inheritance. The co-mingling of funds and the mutual benefit of reducing the matrimonial home's mortgage suggest the inheritance no longer retains its excluded status. As such, the \$27,000 is family property and subject to division.

[118] Accordingly, I find that the RV is family property and subject to equal division under the *FLA*. Ms. Reynolds seeks to be credited with half of the original selling price, and I have been provided with no valuation of its market value today. It is highly unlikely that it has not depreciated in value. Based on a conservative assessment of depreciation, I value the RV at \$40,000, crediting Ms. Reynolds with \$20,000.

Ms. Reynolds Jewellery

Ms. Reynolds Position

[119] Ms. Reynolds asserts that the jewelry she inherited from her mother is excluded property, as it predates the relationship. She acknowledges trading some of the inherited gold to create custom wedding rings valued at \$7,000 and \$3,500, stating that she used approximately \$2,000 of inherited jewelry. She admits the custom rings became family property.

[120] Ms. Reynolds claims that a necklace and pendant she allowed Mr. Thiessen to wear are excluded heirlooms, not gifts. Ms. Hansome testified that Ms. Reynolds permitted her first husband to wear the same items, which he later returned, reinforcing their non-donative nature.

[121] Ms. Reynolds disputes that any other jewelry, including a diamond bangle she purchased with insurance money, is family property. She requests a court order to exchange Mr. Thiessen's wedding ring, currently in her possession, for the necklace and pendant, believing he will not return them voluntarily.

Mr. Thiessen's Position on Ms. Reynold's Jewelry

[122] Mr. Thiessen acknowledges that Ms. Reynolds' custom wedding rings, made from inherited gold, are family property. However, he disputes her claim that she lent rather than gifted the gold necklace and pendant to him, seeking clarification on their status.

Analysis on Ms. Reynold's Jewelry

[123] The custom wedding rings, created using gold from Ms. Reynolds' inherited jewelry, became family property as they symbolized the marital relationship. Ms. Reynolds conceded this transition.

[124] The diamond bangle, purchased using insurance funds from a lost watch, retains its excluded status under s. 85(1) of the *FLA* as it was derived from excluded property.

[125] Beyond the custom rings, Ms. Reynolds consistently maintained that she never gifted her family heirloom jewelry, including a gold necklace and pendant, to Mr. Thiessen.

Finding on Ms. Reynolds Jewellery

[126] I find that the custom wedding rings, created using gold from Ms. Reynolds' inherited jewelry, are family property, as Ms. Reynolds conceded they symbolized the marital relationship.

[127] However, I find that Ms. Reynolds' did not gift the family heirloom jewelry, including the necklace and pendant, to Mr. Thiessen and remains excluded property.

[128] Additionally, the diamond bangle, purchased using insurance funds from a lost watch, retains its excluded status under s. 85(1) of the *FLA*, as it was derived from excluded property.

[129] Mr. Thiessen must return all heirloom jewelry, including the necklace and pendant, to Ms. Reynolds. Ms. Reynolds must return Mr. Thiessen's custom wedding ring.

Ms. Reynolds RRSPs and TFSAs**Ms. Reynolds Position**

[130] Ms. Reynolds inherited a \$150,000 RRSP from her mother before the relationship, which she asserts remains excluded property despite significant withdrawals during the relationship. She testified that she withdrew \$30,000 in 2015 and \$28,200 in 2021 from her RRSP. From the \$28,200 withdrawn in 2021, she transferred \$13,000 into TFSAs for both herself and Mr. Thiessen. She acknowledges that the \$13,000 she deposited into Mr. Thiessen's TFSA was a gift and became family property and she thereby claims half of it, or \$6,500 as credit. Ms. Reynolds claims that the remaining \$13,000 in her own TFSA, is derived from excluded funds and retains its excluded status under s. 85(1)(g) of the *FLA*.

Law

[131] The principles surrounding RRSP exclusions are well established. In *Hagman v. Yasmina*, 2024 BCSC 807, the court held that RRSP funds originating from pre-marital savings remain excluded property if their origins are proven. In that case, the husband retained \$50,000 as excluded property, while the wife was entitled to 50% of the remaining RRSP balance (para. 120).

[132] Similarly, in *B.S.W. v. W.F.W.*, 2023 BCSC 1925, the Court upheld the claimant's pre-marital RRSP as excluded property, even though part of its the funds were spent on family property (paras. 132–136).

[133] Conversely, in *K.S.P. v. J.T.P.*, 2023 BCSC 1188, the Court rejected the husband's claim for exclusion due to insufficient evidence tracing the RRSP funds to pre-marital savings (paras. 515–516).

[134] Finally, in *S.A.T. v. D.I.T.*, 2022 BCSC 1176, the Court confirmed that increases in the value of excluded RRSPs during the marriage constitute family property (paras. 171–181). However, the Court rejected the exclusion of funds from

an RRSP used to pay family debts, as the husband failed to provide evidence of their excluded nature (paras. 182–187).

[135] These cases emphasize the importance of clear evidence tracing the source of RRSP funds to establish their excluded status under the *FLA*.

Analysis

[136] Ms. Reynolds inherited \$150,000 in RRSPs from her mother before the relationship, making the original amount excluded property under s. 85(1) of the *FLA*. However, significant withdrawals during the relationship — \$30,000 in 2014 for family expenses and \$28,200 in 2021 — converted these portions into family property as they were either used for mutual benefit or lacked traceability. In 2021, Ms. Reynolds transferred \$13,000 into each of hers and Mr. Thiessen's TFSAs. I find that the portion transferred into Mr. Thiessen's account constitutes a gift and becomes family property, while the \$13,000 in her own TFSA, remains traceable to her excluded RRSPs and retains its excluded status.

Finding on RRSPs and TFSAs

[137] Ms. Reynolds' \$150,000 RRSP inheritance qualifies as excluded property under s. 85(1) of the *FLA*. However, her \$30,000 withdrawal in 2014 for family expenses and the \$28,200 withdrawal in 2021 lost excluded status as they were used for mutual benefit or lacked traceability. The \$13,000 transferred to Mr. Thiessen's TFSA in 2021 is family property, entitling Ms. Reynolds to a \$6,500 credit. The remaining money in her TFSA, traceable to excluded funds, retains its excluded status and remains hers.

[138] While any increase in the value of Ms. Reynolds' RRSP during the relationship is normally considered family property and subject to equal division, the limited evidence before me reflects a decline in the overall asset value, and no further division is ordered.

Should there be an unequal division of family property or debt under section 95 of the FLA?**Law on Unequal Division of Assets**

[139] Section 81 of the *FLA* establishes the presumption of equal division of family property and debt upon separation. However, s. 95 provides the court discretion to order an unequal division where equal division would result in significant unfairness.

[140] Section 95(1) allows the court to consider various factors outlined in s. 95(2), including the duration of the relationship, post-separation contributions, and the financial circumstances of each party. The burden rests on the party seeking an unequal division to demonstrate significant unfairness, a high threshold requiring evidence of compelling inequity: *Jaszczewska v. Kostanski*, 2016 BCCA 286 at para. 41.

[141] The purpose of s. 95 is not to create financial parity but to ensure fairness in the division of family property and debt, considering the specific circumstances of the parties: *A.D.J. v. F.J.*, 2022 BCSC 600 at para. 192.

Ms. Reynolds Position

[142] Ms. Reynolds seeks an unequal division of property under s. 95, asserting that her financial contributions and sacrifices during the relationship left her at a pronounced economic disadvantage. She claims she depleted her savings and RRSPs to sustain the family, while Mr. Thiessen's financial position improved. She further argues that rebuilding her financial security is unlikely due to her age and limited employment opportunities.

[143] Ms. Reynolds asserts that Mr. Thiessen's claims for excluded property unfairly increase his wealth while she faces financial vulnerability. She contends that an unequal division is necessary to address her disadvantage and secure her retirement.

Mr. Thiessen's Position

[144] Mr. Thiessen argues that he should receive credit for paying the mortgage, property taxes, and other costs for the Corbould House after separation. He contends that Ms. Reynolds retained exclusive use of the property during this time while he incurred significant expenses to secure alternate housing. He asserts that these contributions should be recognized in the division of property.

Analysis on Unequal Division of Assets

[145] The parties' relationship lasted just over eight years, reflecting financial and non-financial interdependence.

[146] The contribution of a spouse to the other's career under s. 95(2)(c) encompasses the full spectrum of contributions, including efforts of a spouse that negatively affected their own career but enhanced the career or business potential of the other spouse: *Healey v. Healey*, 2024 BCCA 68 at para. 65. Contributions as a homemaker and involvement in the Mr. Thiessen's business fall under this category (see *Parton v. Parton*, 2016 BCSC 1528 at para. 61).

[147] Although Ms. Reynolds depleted some of her personal resources, the evidence shows that Mr. Thiessen contributed significantly to the family's financial stability, covering major expenses throughout the relationship with his financial support provided a high standard of living for both parties.

[148] Ms. Reynolds's financial vulnerability, including her age and limited employment prospects, is relevant under s. 95(2)(h) and (i) of the *FLA*. However, the purpose of an unequal division is to remedy significant unfairness, not to achieve financial parity. On balance, Ms. Reynolds has not demonstrated significant unfairness that would justify a departure from the presumption of equal division.

[149] I next consider Mr. Thiessen's request for an unequal division of assets. His claims for unequal division are characterized as a claim for occupational rent and apportionment of debt.

Occupational Rent and Debt

[150] The parties sold the Corbould House on May 30, 2024.

[151] Mr. Thiessen submits that Ms. Reynolds forced him to vacate the Corbould House when the parties separated, causing him to incur at least \$8,000 in rental costs. He further claims to have covered the mortgage, household expenses, and the repayment of matrimonial debt, including credit card and line of credit balances. He seeks credit for bearing these financial obligations.

[152] Although Mr. Thiessen did not explicitly frame his argument as such, in legal terms, his request to have his rent recovered constitutes a claim for occupational rent. This claim is relevant in determining whether the financial imbalance arising from the parties' post-separation circumstances warrants an unequal division of property from this perspective.

Legal Principles Governing Occupational Rent

[153] Occupational rent is an equitable remedy aimed at achieving fairness between co-tenants in family law matters. It is not a standalone claim but must be assessed as part of the broader division of property. Leading authorities in British Columbia on occupational rent include: *J.D.G. v. J.J.V.*, 2016 BCSC 2389; *Stasiewski v. Stasiewski*, 2007 BCCA 205; and *Oyama v. Oyama*, 2009 BCCA 114.

[154] In *Stasiewski*, the Court of Appeal clarified that occupational rent in family law proceedings is not a stand-alone claim but must be assessed in the broader context of property division. Similarly, in *Shen v. Tong*, 2013 BCCA 519, Justice D. Smith emphasized that occupational rent aims to achieve a "just and equitable" outcome under s. 65(1) of the *Family Relations Act.*, R.S.B.C. 1996, c. 128 at para. 94.

[155] In *Lennox v. Lennox*, 2022 BCCA 44, the Court of Appeal confirms that occupational rent is an equitable remedy that requires the exercise of judicial discretion to achieve fairness between the parties based on the specific circumstances of each case. The court emphasizes that occupational rent is not an automatic entitlement, but a flexible remedy designed to address imbalances arising

when one party occupies a jointly owned property to the exclusion of another or incurs significant property-related expenses.

[156] The court directs that each case must be assessed on its own facts, considering relevant factors such as the parties' contributions, the benefits derived by the party in possession, any delay in asserting the claim, and whether unjust enrichment arises. The analysis aims to ensure that the remedy aligns with principles of equity and fairness in the particular circumstances.

[157] Occupational rent, as an equitable remedy, is distinct from ordinary rent. Justice Paris articulated the foundational principles of occupational rent in *Donovan v. Donovan* (1986), 7 B.C.L.R. (2d) 221, 1986 CanLII 774 (B.C.S.C.) at 225, noting:

- a) Right to Possession: A co-tenant out of possession typically cannot claim occupational rent because they retain the legal right to re-enter the property.
- b) Ouster Exception: A claim for occupational rent may arise if the co-tenant was compelled to vacate or was ousted from the property.
- c) Condition for Equitable Relief: A tenant seeking equitable relief, such as reimbursement for property-related expenses, must accept the potential for an occupational rent claim, even if the other tenant left voluntarily.

[158] These principles highlight that occupational rent is a discretionary remedy designed to balance fairness between parties, particularly in cases involving shared property where one party seeks to recover expenses or benefit from equitable relief.

[159] Justice Shergill more recently outlined the relevant principles of occupational rent in *Bishop v. Wang*, 2018 BCSC 781, emphasizing its application as an equitable remedy to address fairness in specific circumstances.

[160] These principles confirm that occupational rent aims to balance the equities between co-tenants, addressing the occupying party's exclusive use of the property and the expenses associated with its maintenance or improvement of that property.

Application to Mr. Thiessen's Claim

[161] While case law remains divided on whether a party who has vacated the family residence must establish involuntary ousting as a prerequisite for an occupational rent claim, this distinction is not relevant here. The evidence demonstrates that Ms. Reynolds compelled Mr. Thiessen to vacate the family residence against his will and he continued to meet financial obligations, including the mortgage and associated expenses, until the property was sold. These contributions, combined with his need to secure alternative housing, support his claim for occupational rent.

[162] To achieve fairness, the court must account for the benefit Ms. Reynolds derived from residing in the home rent-free and Mr. Thiessen's post-separation expense to reside in an alternative location.

Apportionment of Family Debt

[163] Section 86 of the *FLA* defines family debt as liabilities incurred during the relationship or, in some cases, after separation, provided the debt was used to maintain family property. Section 81 presumes equal division, but s. 95 permits adjustments if equal division would result in significant unfairness.

Family Debt for Maintaining Family Property

[164] As mentioned above, s. 86(b) of the *FLA*, recognizes family debt as including debit incurred or paid after the date of separation, if it is incurred for the purpose of maintaining family property.

Calculation of Credits

[165] In the absence of comprehensive documentation, I utilized the most reliable available evidence to estimate the costs associated with maintaining the family residence. Specifically, I used any formal annual statements provided by entities such as AVIA Insurance Company and the City of Chilliwack. These statements

were used to calculate the annual expenses, which were then prorated to determine the corresponding monthly amounts.

[166] Based on the available evidence, I estimated the costs of maintaining the family residence based on formal annual statements from entities such as AVIA Insurance and the City of Chilliwack. These figures were prorated and calculated over the 20-month period. The amounts are as follows:

- a) Mortgage payments: \$20,653;
- b) Property taxes: \$333/month × 20 months = \$6,660;
- c) House insurance: \$103/month × 20 months = \$2,063;
- d) Hydro: \$2,700;
- e) Fortis Gas: \$1,234; and
- f) Other utilities: \$3,600.

[167] The total expenses for maintaining the Corbould House amount to \$36,910. As Ms. Reynolds also benefited from these payments, I find it is appropriate to credit one-half of this debt related to maintaining the family home, which both parties benefited from upon the sale of the home, calculated in the amount \$18,455 on Ms. Reynolds behalf to Mr. Thiessen.

[168] Mr. Thiessen provided evidence having paid \$33,176 of the couples' pre-separation debt. He produced copies of the payments he made, including credit card and line of credit balances. He also confirmed using \$12,000 in cash from the household safe to address shared obligations, reducing the net amount of debt to \$21,176.

[169] He is entitled to a further credit of \$10,588. These adjustments reflect the principles of fairness and proportional responsibility as outlined in the *FLA* and case law.

[170] This analysis ensures that the financial imbalance arising from Ms. Reynolds’s exclusive occupation of the family home and Mr. Thiessen’s post-separation payments is addressed equitably, achieving a fair overall division of property and debt.

Conclusion on Occupational Rent and Credit for Maintaining Family Property and Post Separation Debt

[171] Mr. Thiessen is entitled to \$8,000 in occupational rent. He is also entitled to a total credit of \$29,043, comprising \$18,455 for maintaining the family home and \$10,588 for his disproportionate contributions to family debt. These adjustments align with the principles of fairness and proportional responsibility under s. 95 of the FLA. This ensures that the financial imbalance arising from Ms. Reynolds’s exclusive occupation of the family home and Mr. Thiessen’s post-separation payments is equitably addressed debt.

Conclusion on Division of Family Property

[172] Based on the above analysis, a summary of the court’s findings on the division of family property is as follows:

Summary of Assets

Property/Debt	Current Possession	Family Property Value	Excluded Property Value	Offset Shonra (SR)	Offset John (JT)
Real Property					
9609 Corbould St., Chilliwack BC	Sold and Remaining Funds being held In Trust	\$450,941.98		\$225,470.99	\$225,470.99
Vehicles					
2021 Imagine RV trailer	JT	\$40,000.00		\$20,000.00	-\$20,000.00
2013 Dodge Ram 4x4	JT	\$0.00	15,000	\$0.00	\$0.00
2012 Ford Econovan	JT - SSSI	\$5,000.00		\$2,500.00	-\$2,500.00

Utility Trailer	JT-SSSI	\$500.00		\$250.00	-\$250.00
2017 Harley Davidson CVO and accessories	JT	\$32,925.00		\$16,463.00	-\$16,463.00
2017 Honda CRV	SR	\$29,494.00		-\$14,747.00	\$14,747.00
Jewelry - Shona	SR		\$84,000.00		
1 Kal Gajoum painting	JT	\$2,800.00		\$1,400.00	-\$1,400.00
74 grams of gold and 22 oz of silver	SR			-\$750.00	\$750.00
Chinese Art	JT		\$2,000.00		
Glass Art	JT		\$1,000.00		
Coins purchased from Mary	Joint	\$2,000.00		-\$1,000.00	\$1,000.00
Generators	JT	\$5,000.00		\$2,500.00	-\$2,500.00
Avion Points	JT	\$4,250.00		\$2,125.00	-\$2,125.00
Jewelry - John	JT		\$14,000.00		
Stamp and Hockey collection	JT	\$12,500.00		\$6,250.00	-\$6,250.00
Financial Assets					
RBC TFSA acct	SR		\$22,000.00		
Sunlife TFSA acct	JT	\$13,000.00		\$6,500.00	-\$6,500.00
Cash – from safe		\$12,000.00			\$0.00
Foreign cash and crpyto wallet		\$2,000.00		\$1,000.00	-\$1,000.00
Pensions and RRSPs					
RBC RRSP	SR		\$93,088.00		
Other Assets					

Business Interests					
Super Seven Safety Inc. / Done Right Kitchen and Bath Inc.	JT				
ASSETS - W/O HOUSE				\$49,241.00	-\$49,241.00
Assets Total:				\$274,711.99	\$176,229.99

Summary of Family Debt

Property/Debt	Party Who Paid	Debt Value	Offset SR	Offset JT
Costs to maintain Family Home	JT	\$36,910.00	-\$18,455.00	\$18,455.00
Family Debt - LOC and VISA (less \$12,000 cash from safe)	JT	\$21,176.00	-\$10,588.00	\$10,588.00
Debt Total:		\$58,086.00	-\$29,043	\$29,043.00

Total Settlement of Family Property

Property/Debt	Party Who Paid	Total	Offset SR	Offset JT
Misc Assets			\$49,241.00	-\$49,241.00
Proceeds from Sale of Matrimonial Residence		\$450,941.98	\$225,470.99	\$225,470.99
Offset from Total Assets			\$274,711.99	\$176,229.99
Less Family Debt		\$58,086	-\$29,043	\$29,043.00
Final Division of Remaining Family Property in Trust			245,668.99	205,272.99

Is Ms. Reynolds entitled to spousal support? If so, what is the appropriate quantum and duration?

Claimant's Position

[173] Ms. Reynolds seeks spousal support retroactive to the date of separation and on an ongoing basis.

[174] According to Mr. Thiessen's testimony, he asked Ms. Reynolds to quit her job in December 2013 so she would be available when he returned home from his work rotation in northern Alberta. Ms. Reynolds stated that Mr. Thiessen earned enough income for them to live comfortably.

[175] Ms. Reynolds testified that in 2012–2013, before meeting Mr. Thiessen, she took a technology course at the University of the Fraser Valley, which helped her develop a sense of independence. Ms. Hansome confirmed that she noticed Ms. Reynolds gaining confidence through her education and subsequent employment. In February 2013, Ms. Reynolds started a practicum at FIOSA-MIOSA in Chilliwack, which led to a full-time job. She worked there from February to December 2013 but eventually decided to quit, allowing Mr. Thiessen to support her financially, as he had requested.

[176] During the relationship, Ms. Reynolds did some cleaning work for friends and family and assisted Mr. Thiessen with his business, "SSSI". She accompanied him when he provided client quotes and worked alongside him on projects. Ms. Reynolds also did additional work for SSSI beyond her cleaning jobs. However, she claims Mr. Thiessen tried to control her work schedule; if she wasn't working for him, he expected her to be available whenever he needed her.

[177] Ms. Reynolds testified that she did not earn income from SSSI as she was neither an employee nor a subcontractor. According to her, Mr. Thiessen often belittled her in front of clients and showed little respect, leading her to withdraw and reduce her work with SSSI over the last two years of their relationship.

[178] Ms. Reynolds believes these circumstances support her claim for spousal support, given her limited work experience and age. She explained that quitting her job in 2013 caused her to lose independence and created years of financial reliance on Mr. Thiessen, leaving her unable to advance the career she had initially trained for. Now, almost 11 years after leaving FIOSA-MIOSA and with minimal recent office experience, Ms. Reynolds feels that housekeeping is the only job suited to her current skills. However, due to her age, she can only work 3-5 hours a day and lacks the physical stamina she once had.

[179] Ms. Reynolds' evidence of the disadvantages she faced due to the relationship, include leaving her job to accommodate Mr. Thiessen's work schedule, which led to her economic disadvantage. Compensatory support is typically awarded in such situations to address economic losses caused by the relationship.

[180] Moreover, she relies on principles laid out in cases like *Chutter v. Chutter*, 2008 BCCA 507 which highlights compensatory principles.

[181] At trial, Ms. Reynolds told the court that she has been living on some of her TFSAs and started working in April 2023 as a cleaner. She said she is trying to build some clientele so she can go out on her own and get paid better. She states that when she is contracted, she makes \$25-\$30 per hour and works 4 to 5 days a week for three-to-five-hour shifts.

[182] She asserts that spousal support is warranted given the significant discrepancy between the parties' financial circumstances, with her net income from self-employment being \$9,000 annually. Ms. Reynolds further seeks a determination of Mr. Thiessen's income for the purpose of calculating spousal support, as well as a fine for Mr. Thiessen's failure to pay the interim spousal support of \$1,000 per month as ordered in the January 2023 consent order, citing missed payments for April, May, and June 2024.

[183] Ms. Reynolds seeks an order for lump sum spousal support rather than periodic payments. She emphasizes that a lump sum award would terminate

ongoing financial ties between the parties, which is desirable given the circumstances. Ms. Reynolds argues that Mr. Thiessen's failure to comply with previous court orders for spousal support, combined with his recent travel to Thailand and support of a new partner, raises concerns about future compliance with periodic payments. Additionally, Ms. Reynolds contends that a lump sum would be preferable given the absence of dependent children, allowing for a clean financial break. Ms. Reynolds also highlights that Mr. Thiessen's former law firm holds the net sale proceeds from the family home, which could be used to satisfy the lump sum award. The lump sum amount she requests is \$125,680, based on a determination of Mr. Thiessen's income at \$120,000 and Ms. Reynolds's at \$9,000.

Respondent's Position

[184] Mr. Thiessen opposes Ms. Reynolds's request for spousal support, arguing that his reported gross income of \$8,620, supplemented by CPP benefits, does not support further financial obligations. Mr. Thiessen contends there is no justification for the spousal support she is seeking.

[185] Mr. Thiessen cites financial difficulties and a limited capacity to meet such obligations. He initially complied with a consent order requiring \$1,000 monthly interim spousal support payments but ceased these payments in March 2024. He attributes his inability to continue paying to rising interest rates and a downturn in his renovation business, which significantly reduced his income. He emphasizes that his financial challenges have worsened since the separation and that his earnings have been inconsistent.

[186] Mr. Thiessen asserts that he carried the bulk of the financial responsibilities during the relationship. He highlights his significant contributions to maintaining their shared business and covering household expenses, arguing that these efforts should weigh against any obligation to provide ongoing support.

[187] Mr. Thiessen's position is rooted in his belief that Ms. Reynolds has overstated her financial need while understating his economic struggles. He

contends that any spousal support award should reflect his reduced earning capacity and the disproportionate financial burden he continues to carry.

Legal Basis

[188] Under both the *FLA* and the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) [*DA*] spousal support may be awarded on compensatory or non-compensatory grounds, or both: *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420, 1999 CanLII 715 (SCC). The objectives of spousal support under section 161 of the *FLA* and section 15.2 of the *DA* include:

- a) recognizing economic disadvantages arising from the marriage or its breakdown;
- b) relieving economic hardship resulting from the breakdown.; and
- c) promoting economic self-sufficiency within a reasonable time.

[189] Compensatory spousal support seeks to address economic disadvantages suffered by one spouse due to their contributions to the marriage, including sacrifices made for family responsibilities: *Chutter*.

[190] Non-compensatory, or needs-based, support addresses financial disparities between the spouses, considering their standard of living during the marriage: *Moge v. Moge*, [1992] 3 S.C.R. 813, 1992 CanLII 25.

Application of Law to the Facts

[191] Ms. Reynolds testified that she left her full-time job in December 2013 at Mr. Thiessen's request to support his work schedule. By doing so, she sacrificed her independence and career growth, which contributed to her current economic disadvantage.

[192] Ms. Reynolds is now 60 years old, and claims that she earns an annual net income of \$9,000 from cleaning services and lacks the physical stamina to expand

her work hours. She also has limited career prospects due to her age and absence from the workforce for an extended period.

[193] Based on the evidence and applicable legal principles, I find that Ms. Reynolds is entitled to spousal support on both compensatory and non-compensatory grounds.

[194] The parties were together for 8.5 years, and Ms. Reynolds was 59 years old at the time of separation, satisfying the "Rule of 65" under the *Spousal Support Advisory Guidelines* [SSAG]. This rule allows for indefinite spousal support when the recipient's age at separation and the length of cohabitation total 65 or more, recognizing the reduced likelihood of achieving self-sufficiency at an advanced age. I recognize that the *Guidelines* are advisory and do not compel any particular result: *McClaghry v. McClaghry*, 2016 BCCA 101 at para 27.

[195] Under the *FLA* and *DA*, spousal support addresses economic disadvantages arising from the relationship, allocates financial responsibilities fairly, alleviates hardship, and promotes self-sufficiency where possible. Ms. Reynolds's age and limited earning capacity, however, make self-sufficiency impractical.

[196] Compensatory spousal support aims to offset economic disadvantages suffered due to sacrifices made during the relationship. Ms. Reynolds left her full-time job in December 2013 at Mr. Thiessen's request, sacrificing her independence and career advancement. Her role in supporting Mr. Thiessen's business further constrained her financial growth. Jurisprudence, including *Moge* and *Chutter*, confirms that such contributions, direct or indirect, justify compensatory support.

[197] Non-compensatory, or needs-based, support is warranted given Ms. Reynolds's limited earning potential and the significant decline in her post-separation standard of living. With a net annual income of \$9,000 from cleaning work, she lacks the stamina to increase her hours and has few opportunities to improve her financial circumstances at age 60. The *SSAG* and *DA* recognize the

need to alleviate financial hardship and maintain the marital standard of living when self-sufficiency is unrealistic.

[198] The evidence supports an award of indefinite spousal support under the SSAG “without child support” formula, given Ms. Reynolds’s age, financial vulnerability, and economic interdependence during the relationship. Both monthly payments and a lump sum option are appropriate considerations.

[199] In summary, Ms. Reynolds is entitled to indefinite spousal support to address both the economic disadvantage and financial need arising from the breakdown of the relationship.

[200] With entitlement established, the next step is to determine the quantum and duration of spousal support, considering these factors alongside the guidelines under the SSAG.

What Quantum and Duration?

[201] The quantum and method of payment, whether periodic or lump sum, is determined based on the parties’ respective incomes, the duration of the relationship, the standard of living during the relationship, and the specific factors relevant to awarding a lump sum in this case.

[202] I will refer to the SSAG to guide the assessment of spousal support, which provides a range based on the length of the marriage and the income disparity between the parties. Adjustments within or outside this range may be warranted to address unique circumstances, including Ms. Reynolds’s advanced age and limited prospects for self-sufficiency.

[203] I will also determine whether monthly payments or a lump sum would better address Ms. Reynolds’s financial needs while considering Mr. Thiessen’s ability to pay.

Ms. Reynolds position

[204] The Claimant, Ms. Reynolds, has calculated a proposed lump sum spousal support amount, with detailed calculations provided in Schedule “B” of her submissions. Her summary is as follows:

- a) Requested Lump Sum Amount: Ms. Reynolds seeks a lump sum of \$125,680, based on her calculation that Mr. Thiessen’s Guideline income is \$120,000;
- b) Range of Support: Ms. Reynolds notes that the lump sum spousal support range, given a \$120,000 income for Mr. Thiessen and an 8-year duration of the relationship, is between \$98,461 (low end) and \$125,680 (high end). She advocates for the high range, or \$125,680; and
- c) Income Disparity Justification: Ms. Reynolds contends that the high-end for the lump sum is justified due to the large gap in net disposable income.

[205] She argues that this calculation ensures fairness and offsets her limited income and resources in comparison to Mr. Thiessen’s.

Mr. Thiessen’s position

[206] Mr. Thiessen opposes continued spousal support obligations, citing unstable income and asserting that the claimant’s modest self-employment income shows her ability to contribute to her own support. However, based on evidence, including his VISA credit card accounts and line of credit, I find that his income tax returns for himself and SSSI do not accurately reflect his true income.

Analysis

Parties Income

[207] In cases where a party’s financial disclosure is incomplete or insufficient, especially for self-employed individuals, courts may impute income. The standard for imputing income is reasonableness, requiring the Court to assess:

- a) the spouse's earning potential, considering factors such as age, education, health, employment history, and job availability.; and
- b) whether the spouse is intentionally underemployed or failing to fully disclose income.

[208] Where records are incomplete, circumstantial evidence, such as lifestyle, cash flow, and spending patterns, can be used to determine a party's true income.

[209] Ms. Reynolds, Mr. Thiessen, and two witnesses testified that Mr. Thiessen frequently carried and used cash. Both Ms. Reynolds and Mr. Thiessen confirmed that Mr. Thiessen would place money from cash jobs into a safe. Income tax records suggest that Mr. Thiessen did not declare all the income he earned.

[210] The evidence establishes that Mr. Thiessen was frequently paid in cash for his work, which he stored in a safe and used to cover both work-related expenses and household costs. These expenditures included social activities such as dinners with friends. Although Mr. Thiessen's method of handling cash provided Ms. Reynolds with limited transparency, she corroborated that his use of cash was a consistent and systematic part of their financial management. This arrangement supported a high standard of living throughout their relationship.

[211] Mr. Thiessen owns SSSI, a business capable of performing profitable renovation projects. However, as expressed above, the equipment and assets of SSSI alone do not generate income. Rather, the business's success and ability to generate income depend on Mr. Thiessen's skills and enterprise, including his ability to secure work and complete projects to the satisfaction of his clients.

[212] I am mindful that, during a portion of the relationship, Mr. Thiessen experienced periods of unemployment, reflecting the inherent risks and fluctuations within his industry. I must consider this reality when assessing his income and earning capacity. Additionally, at 62 years of age, Mr. Thiessen, like Ms. Reynolds, is likely unable to maintain the same pace of work he previously did. The evidence further confirmed that, prior to their separation, the parties were actively planning for

retirement, which underscores the need to balance their respective financial circumstances fairly.

What income should be imputed to the parties?

Imputing Income

[213] In deciding spousal support, judges have wide discretion to assign or "impute" income to either spouse. However, the spouse requesting income to be imputed to the other must present evidence supporting that decision.

[214] While the basis for spousal support differs from that for child support, the test for imputing income is similar for both. It also depends on reasonableness and considers the same factors. However, for non-compensatory spousal support, the court also considers the standard of living during the relationship (as seen in *Moge* and *Bracklow*).

[215] The term "means" of a spouse encompasses all financial resources available to them, including pecuniary resources, capital assets, employment income, earning capacity, and "other sources from which the person receives gains or benefits": *Leskun v. Leskun*, 2006 SCC 25 at para. 29.

What income should be imputed to Mr. Thiessen?

[216] To justify imputing income to Mr. Thiessen, Ms. Reynolds was required to provide evidence supporting the imputed amount. In this case, aside from a general suggestion that the court should impute \$120,000 as Mr. Thiessen's income, I did not receive any substantial argument or evidence explaining why this specific figure is reasonable.

[217] Furthermore, as previously mentioned, I find the income tax returns filed by Mr. Thiessen are unhelpful. They appear to significantly underreport his actual income. However, in his F8- Financial Statement, filed in January 2023, Mr. Thiessen reported his self-employment income as being \$60,000 and his CPP income of \$4,800 for a total of \$64,800. Although the income claimed in the F8 is greater than that set out in his income tax returns, I find it is still inconsistent with the

couple's demonstrated lifestyle, substantial purchases, and the considerable amounts of money that flowed through their credit cards and bank accounts. These discrepancies suggest that Mr. Thiessen's true earning capacity is higher than reported.

[218] The evidence clearly establishes that Mr. Thiessen's company, SSSI, possesses both the equipment and expertise necessary to undertake profitable renovation projects. Additionally, there is compelling evidence indicating that Mr. Thiessen typically receives cash payments for his business services. This practice underscores his active management and capability in running the business. Without the expertise and leadership of Mr. Thiessen, SSSI comprises nothing more than tools and equipment.

[219] Given the adversarial interests between Ms. Reynolds and Mr. Thiessen, and the fact that Mr. Thiessen disputes this figure and has provided a contrary position in both his F8 Financial Statement as well as through his low-income tax filings, I undertook a careful and objective assessment of all the evidence before me to determine a fair figure that aligns with Mr. Thiessen's realistic earning capacity.

[220] The test for imputing income in cases like this is based on reasonableness, requiring an evaluation of each spouse's ability to earn income by considering factors such as age, education, health, job history, job availability, and capacity for retraining. Here, the issue involves both Mr. Thiessen's intentional underreporting of income—evidenced by his pattern of being paid in cash—and a marked decline in his employment efforts, as he has failed to pursue the same level of contract work, he undertook prior to separation. In the absence of complete or reliable financial records, the court may rely on circumstantial evidence to ascertain a party's true income. In this case, multiple forms of indirect evidence indicate that Mr. Thiessen's income is significantly higher than he has reported, highlighting the importance of a thorough and objective analysis to accurately determine his earning capacity while ensuring the imputation process is fair, reasonable, and consistent with family law principles.

[221] The couple's annual household expenses, including mortgage and utilities, totaled approximately \$22,146, and was paid from Mr. Thiessen's after-tax income. In addition, they made significant purchases of vehicles and motorcycles, dined out frequently, and traveled extensively. This spending pattern suggests a cash flow exceeding the income reported by Mr. Thiessen.

[222] Finally, the parties' bank and credit card statements show significant transactions and payments, also suggesting a greater cash flow than one would expect if Mr. Thiessen's income was as low as he claims. Although these financial records are difficult to analyze due to a lack of separation between business and personal expenses, the overall cash flow implied by these transactions indicates underreporting.

[223] For example, although there are multiple bank accounts, I reviewed a full year of the couple's RBC Personal Banking Account Statements (Account ending in 4855) from the last year of their marriage. The account showed deposits of \$102,361 and withdrawals of \$109,457, indicating substantial cash flow of over \$100,000. Upon reviewing nature of the transactions, I found that the charges are predominantly of a personal nature. I note that their mortgage and the ancillary expenses were also paid for out of this account.

[224] A review of the most frequently used VISA account (ending in xx1850), supported by nearly three years of statements entered into evidence, shows payments of \$115,046 in 2020, \$51,906 in 2021, and \$78,551 in 2022. The charges reflect a mix of personal and business-related expenses, indicating significant cash flow used to support both the couple's lifestyle and Mr. Thiessen's business operations. Regular monthly payments to the VISA account suggest that Mr. Thiessen was covering work-related purchases with cash received from contracts.

[225] Additionally, the SSSI Line of Credit primarily reflects transfers of funds without evidence of substantial business-related purchases. Notably, Mr. Thiessen made monthly payments from the SSSI Line of Credit into their personal banking

account, further demonstrating that business funds were used to sustain the couple's personal lifestyle.

[226] Based on my review of these statements and the presence of indirect evidence indicating that Mr. Thiessen's actual earnings are significantly higher than reported in his financial filings, I uphold the \$120,000 suggested imputed income figure. I find that this amount appropriately reflects Mr. Thiessen's earning potential, considering his business operations and financial transactions. The substantial cash flow observed in both personal and business accounts support Mr. Thiessen's financial capacity of \$120,000 of income per year.

What income should be imputed to Ms. Reynolds?

[227] Ms. Reynolds requests that her income be imputed at \$9,000 per year, claiming this reflects her self-employment earnings as a cleaner and citing her age as a factor limiting her ability to work as she once did. However, based on her own evidence, I find that Ms. Reynolds is also underreporting both her actual income and earning potential.

[228] Ms. Reynolds testified that she earns between \$25 and \$30 per hour for cleaning work, typically working four to five days per week for shifts of three to five hours. Using the lowest hourly rate and the minimum number of days and hours worked, her weekly earnings are projected at a minimum of \$300, resulting in an estimated annual earning capacity of \$15,000 over 50 weeks. Additionally, Ms. Reynolds testified that she hopes to increase her clientele and work independently, potentially increasing her income in the future.

[229] Additionally, a review of the financial statements reveals that Ms. Reynolds has applied for and is now receiving CPP benefits. These likely commenced in August 2023, following her eligibility upon turning 60 years of age. Based on pro-rated calculations for 2023, her monthly entitlement appears to be approximately \$412, amounting to approximately \$4,955 annually. This additional income suggests her financial circumstances may be stronger than initially indicated by her reported earnings.

[230] Consequently, I impute an annual income to Ms. Reynolds that reflects both her potential earnings from employment and her CPP benefits, resulting in a rounded up imputed income of \$20,000 per year.

SSAG Ranges

[231] There is a significant income disparity between the parties. Ms. Reynolds' imputed income is \$20,000 per year, while I impute Mr. Thiessen's fluctuating income at approximately \$120,000, resulting in a 74% to 26% income split for spousal support purposes as determined under the SSAG.

[232] Using the SSAG "without child support" formula, the appropriate range of spousal support payments reflects this disparity. Given Ms. Reynolds's age, limited earning capacity, and financial vulnerability, an award near the high end of the range is justified. This would provide approximately \$1,416.67 per month or a comparable lump sum.

[233] The following factors support a high-end award:

- a) Ms. Reynolds's income is substantially lower than Mr. Thiessen's, creating a significant gap in their post-separation standard of living.
- b) At her age, Ms. Reynolds is unlikely to substantially increase her income, heightening her financial vulnerability.
- c) Although the relationship lasted 8.5 years—a moderate duration—Ms. Reynolds's contributions, such as homemaking and unpaid support for Mr. Thiessen's business, limited her financial prospects.

Duration

[234] Under the "Rule of 65," if the recipient's age plus the length of the relationship totals 65 or more, indefinite spousal support is generally appropriate. Ms. Reynolds was 59 at the time of separation, and the relationship lasted 8.5 years, making her eligible for indefinite support. This rule recognizes the financial hardship of rebuilding economic security later in life and supports sustained assistance for Ms. Reynolds.

Lump Sum versus Periodic Payments

Legal Principles

[235] Most spousal support orders are *periodic* in nature, with lump sum orders being the exception. In determining whether to make a lump sum award, the court should weigh the advantages and disadvantages of a lump sum award against those of more typical periodic payments: *Parton v. Parton*, 2018 BCCA 273 at para. 47; see also *Falkener v. Falkener*, 2020 BCCA 303.

[236] The *Falkener* decision highlights that lump-sum spousal support is appropriate when enforceability of periodic payments is doubtful due to a history of non-payment or limited financial disclosure by the payor. Lump-sum support provides finality and financial security for the recipient, eliminating the need for ongoing disclosure and avoiding future disputes over income adjustments.

[237] This approach is particularly beneficial in high-conflict cases, as it ends the financial relationship and ensures stability for the recipient. A key consideration is whether the payor has sufficient resources to make a lump-sum payment without jeopardizing their financial stability, as was determined in *Falkener*, where the court found the payor's assets sufficient to warrant such an award.

[238] In *Davis v. Crawford*, 2011 ONCA 294, at paras. 67 and 68 (and later approved in *Parton* at paras. 47 and 48), the court outlined both the advantages and disadvantages of lump-sum spousal support.

[239] In *Zhang v. Sun*, 2016 BCSC 1418 at para. 303, Justice Fleming, citing *Davis*, clarified that lump-sum spousal support does not require "very unusual circumstances." Instead, courts must balance the advantages and disadvantages of such an award, with the payor's ability to provide a lump sum being a key consideration.

[240] Factors favoring lump-sum support include a real risk of non-compliance with periodic payments and incomplete financial disclosure. Disadvantages include the

inability to vary the order, challenges in adjusting to future financial changes, and the difficulty of determining a fair lump-sum amount.

[241] While the SSAG can help determine lump-sum amounts, lump sums differ from periodic payments in that they are not tax-deductible for the payor nor taxable for the recipient.

[242] In *Parton*, the Court of Appeal clarified that when calculating a lump sum, the type of assets available for spousal support—whether family, excluded, or other property, is irrelevant.

[243] Although the SSAG are primarily designed for calculating periodic support, they can serve as useful reference points for approximating lump-sum payments. Judges may rely on the SSAG to estimate the total amount owed as a single payment, tailored to the specific circumstances of the case.

[244] While periodic payments offer flexibility and allow for future review, lump-sum payments may be preferred where enforcement of periodic support is likely to be challenging.

Ms. Reynolds position

[245] Ms. Reynolds argues that the court should order lump-sum spousal support for several reasons:

- a) **Non-Compliance with Support Orders:** Mr. Thiessen has failed to pay spousal support for three months and is in breach of an interim order.
- b) **International Travel and New Partner:** Mr. Thiessen recently spent 12 weeks in Thailand (late 2023 and early 2024) and testified about meeting a new partner.
- c) **Availability of Funds:** Mr. Thiessen’s former law firm is holding proceeds from the sale of property, which could cover a lump-sum award.

- d) Lack of Financial Disclosure: Mr. Thiessen has not fully disclosed his income, complicating the calculation of ongoing support.
- e) Risk of Relocation: Ms. Reynolds argues that Mr. Thiessen may move to Thailand permanently, making it nearly impossible to enforce ongoing support payments if the court orders periodic payments instead of a lump sum.
- f) Preference for a Clean Break: Since there are no children involved; Ms. Reynolds believes a clean financial break is preferable to ongoing support obligations.
- g) Tax Considerations: Mr. Thiessen reports a relatively low income and pays minimal tax, meaning that periodic support—taxable to Ms. Reynolds and non-taxable to Mr. Thiessen—would have little impact on his tax returns.

[246] Ms. Reynolds contends that the benefits of a lump-sum award outweigh any disadvantages in this case. Given the division of property and her concerns about enforceability, she submits that a one-time payment is more practical, and that Mr. Thiessen is more likely to comply with such an order.

Analysis

[247] Mr. Thiessen has demonstrated a history of non-compliance with court-ordered spousal support, having missed three months of interim support immediately before the date of the trial. Additionally, evidence presented at trial shows that Mr. Thiessen has spent significant time in Thailand supporting a new partner while failing to meet his obligations in Canada. These factors raise serious enforceability concerns, making periodic payments impractical. As noted in *Falkener*, a lump-sum award ensures that the recipient receives the support owed without the risk of future non-payment.

[248] Mr. Thiessen’s lack of financial transparency further complicates the enforcement and calculation of periodic payments. His incomplete disclosure of income, particularly with respect to cash earnings from his business, creates uncertainty about his actual financial position. As highlighted in *Zhang*, a lump sum mitigates these challenges by eliminating the need for ongoing financial updates and adjustments.

[249] A lump-sum award offers a clean financial break between the parties, avoiding future disputes over adjustments or enforcement. This approach is particularly beneficial in cases where there are no dependent children, as it ensures immediate financial stability for Ms. Reynolds while ending the ongoing financial relationship between the parties (*Davis*).

[250] As Mr. Thiessen has access to funds held in trust from the sale of family property, a lump sum does not jeopardize his financial stability.

Calculating a Lump Sum Payment

[251] I have determined that the duration of spousal support for Ms. Reynolds will be indefinite, as the “Rule of 65” under the SSAG applies in this case.

[252] However, indefinite support does not mean that spousal support is “permanent” or “infinite.” Under both the *Guidelines* and the current law, indefinite support merely indicates that no specific termination date has been set. In practice, such orders are frequently reviewed and adjusted. Significant modifications often occur after the payor’s retirement, as retirement typically brings reduced income for the payor and the commencement of pension income for both parties. In many cases, indefinite support operates effectively as support until the payor reaches 65.

[253] In this case, the parties’ respective ages indicate that the amount of spousal support is likely to change significantly upon Mr. Thiessen’s retirement. At the time of trial, he was 62 years old, and the court has held him responsible for paying the SSAG monthly spousal support from the date of separation to the date of trial.

[254] This change will reflect the evolving financial circumstances of the parties, including adjustments for pension income and the reduced earning capacity of Mr. Thiessen post-retirement.

[255] In *Robinson v. Robinson*, 2011 BCSC 1489, the court addressed the appropriateness of lump-sum spousal support in the context of a payor approaching retirement. Lump-sum payments are not taxable to the recipient nor deductible for the payor, simplifying their financial impact. This tax neutrality contrasts with periodic payments, which impose tax consequences on both parties. For lower-income recipients nearing retirement, such as Ms. Robinson, these tax implications can significantly affect their financial security.

[256] The court in *Robinson* recognized that lump-sum support is particularly suitable when ongoing periodic payments may become uncertain due to the payor's impending retirement or other constraints. In that case, Mr. Robinson, aged 55, was unlikely to continue working until 65 due to health-related challenges, warranting adjustments to both the duration and amount of support. The court used the SSAG as a reference to calculate support until the expected retirement age, while applying a contingency discount for the possibility of earlier retirement or reduced earnings.

[257] The SSAG emphasize that lump-sum payments trade off amount and duration. Courts may calculate the value of periodic payments over a specific duration, applying present value adjustments (typically a discount rate of 2–4%) and contingency adjustments to reflect uncertainties such as health or employment risks.

[258] The SSAG emphasize restructuring spousal support awards to achieve finality while balancing fairness. The restructuring ensures that the total support aligns with the objectives of the *DA* and the financial circumstances of the parties.

[259] The tax-neutral nature of lump-sum payments further supports their use in appropriate cases. As the SSAG note, periodic support is taxable income to the recipient and deductible for the payor, while lump-sum payments are neither. Courts

must therefore account for the payor's lost tax deductions and the recipient's avoided tax burden when determining a fair lump-sum amount.

[260] In doing so, the courts may restructure awards into lump sums where finality is appropriate, projecting duration based on retirement age and applying discounts for contingencies.

[261] In *Robinson*, the court calculated the lump sum by projecting periodic support until the payor's anticipated retirement age of 65, applying a 7% discount rate for present value and a 20% contingency discount for health and employment risks. This method balanced the recipient's need for support with the payor's limited ability to sustain long-term payments, given his financial and health challenges.

[262] Mr. Thiessen's circumstances warrant similar considerations. At age 62, he is nearing retirement with limited savings, no RRSPs, and a physically demanding occupation. His inheritance has already been spent. Given these factors, the court finds it appropriate to restructure Ms. Reynolds's spousal support into a lump sum representing five years of payments. This calculation assumes support would extend slightly beyond Mr. Thiessen reaching age 67, aligning with a reasonable retirement timeline and balancing his financial capacity with Ms. Reynolds's entitlement under the Rule of 65.

[263] The appropriate lump sum payment that accounts for present value adjustments and tax consequences, is calculated in line with the principles of the SSAG, to ensure fairness to both parties and provide finality to the spousal support arrangement.

[264] I calculated the lump sum award using DivorceMate software, based on the parties' imputed incomes (\$120,000 for Mr. Thiessen and \$20,000 for Ms. Reynolds), their 8.5 years of cohabitation, and their ages at separation (61 and 59). The calculation applied the "Without Child Support" formula under the SSAG, which provides a monthly spousal support range of \$1,062 to \$1,417 for an indefinite duration. I adopted the high end of the range (\$1,417) and restructured it into a lump

sum reflecting an additional five years of payments from the date of trial. As will be noted below, I consider Mr. Thiessen's obligations to pay spousal support on monthly basis from the date of separation to the trial date.

[265] Using DivorceMate's restructuring feature, it calculated a \$57,337 lump sum, representing the cost/benefit midpoint of the high-end range. This value reflects the cost/benefit balance after accounting for inflation (using a 1.52% discount rate) and the non-taxable nature of the payment to the recipient.

Finding on whether a Lump Sum Payment is applicable

[266] For the above reasons, the Court concludes that a lump-sum award of \$57,337 is preferable to periodic payments, given Ms. Reynolds's financial vulnerability, Mr. Thiessen's history of non-compliance, and the application of the Rule of 65. This award ensures fairness and finality while addressing the enforceability challenges associated with periodic payments.

Arrears Spousal Support

[267] After the separation, Ms. Reynolds filed a notice of family claim seeking \$2,000 in interim spousal support and exclusive occupancy of the Corbould House. The parties resolved these claims by a consent order granting her \$1,000 in monthly spousal support, which was less than her initial request. The consent order did not impose any explicit obligations on Ms. Reynolds to offset mortgage or house-related expenses during her exclusive occupancy. Likewise, the consent order did not stipulate that Mr. Thiessen's payment of these expenses would fully satisfy his spousal support obligations or preclude him from seeking reimbursement.

[268] Ms. Reynolds contended that the reduced spousal support amount reflected an implicit understanding that Mr. Thiessen would bear the full cost of maintaining the family home without seeking reimbursement. Mr. Thiessen, however, disputes this interpretation, asserting that his agreement to ensure payment of the property-related expenses was not intended to replace or supplement his obligation to pay

spousal support and should not preclude him from receiving credit for these contributions.

[269] Given this dispute, above, I calculated the expenses incurred in maintaining the family home from the point of separation until it was sold and I allocated them accordingly.

[270] I now assess the reasonable amount of spousal support Ms. Reynolds was entitled to receive under the circumstances and what she received.

[271] Based on the SSAG, Ms. Reynolds was entitled to spousal support payments in the amount of \$1,417 per month from the time of separation until the end of June 2024. Based on the SSAG, Ms. Reynolds was entitled to receive \$1,417 per month. His payments for the relevant months were \$1,000 per month which is \$417 below the required amount.

[272] In addition, Mr. Thiessen failed to pay spousal support for the months of April, May, and June 2024, For 19 months, the shortfall of \$417 per month totals \$7,923. Adding the three unpaid months at \$1,417 per month results in an additional \$4,251, bringing the total amount owed to Ms. Reynolds for past spousal support to \$12,174.

Financial Balancing

Disputed Assets

[273] As determined above, Ms. Reynolds is to receive a total of \$49,241 from Mr. Thiessen as part of the division of family assets.

Occupational Rent

[274] Mr. Thiessen is entitled to \$8,000 for occupational rent.

Debt

[275] I have calculated the total familial debt to be \$58,086 which accounts for the VISA and LOC payments that I was able to decipher. Ms. Reynolds needs to offset Mr. Thiessen to the amount of \$29,043 for her portion of the family debt. There were

\$36,910 of costs to maintain the family home from the point of separation until it was sold. Mr. Thiessen also paid \$33,176 on the SSSI Line of Credit and VISA of which Mr. Thiessen used \$12,000 in cash from the safe to pay down.

Miscellaneous

[276] Ms. Reynolds seeks reimbursement of \$110 and \$628 for Insurance Corporation of British Columbia (“ICBC”) related payments. She asserts that Mr. Thiessen cashed a \$628 ICBC rebate cheque related to her vehicle, despite it being addressed to her, and failed to transfer the funds to her. Additionally, she claims Mr. Thiessen retained a \$110 refund associated with an ICBC cancellation. Ms. Reynolds submits that both amounts arise from transactions connected to her property and Mr. Thiessen should be reimburse her from the net sale proceeds. I find that Ms. Reynolds is entitled to a credit of \$738.00 for these miscellaneous amounts.

Lump Sum Spousal Payment

[277] Mr. Thiessen is ordered to pay Ms. Reynolds \$57,337 as a lump-sum spousal support payment.

Arrears Spousal Support

[278] Mr. Thiessen owes Ms. Reynolds a total of \$12,174 in past spousal support, comprising a 19-month shortfall of \$7,923 and three fully unpaid months (April, May, and June 2024) totaling \$4,251.

Final Balance Sheet

[279] To calculate the final set-off, I added the amounts owed to each party and determined the net balance by subtracting one party’s entitlement from the other as follows:

Property/Debt	Offset SR	Offset JT
Offset after Family Property	\$274,711.99	176,229.99

Family Debt	-\$29,043	\$29,043.00
Lump Sum Spousal Support	57,337	-57,337
Arrears Spousal Support	\$12,174	-12,174
Misc – ICBC Payment	738	-738
Final Division of Trust Funds	315,917.99	135,023.99

Final Distribution of Assets

[280] Based on the above analysis, out of the final assets which are currently held in trust, Ms. Reynolds is to receive \$315,917.99 and Mr. Thiessen is to receive \$135,023.99. This fully resolves all outstanding financial claims between the parties.

Cancellation of Insurance Policy on Ms. Reynolds

[281] The evidence revealed that while Mr. Thiessen has stopped paying spousal support, he continues to maintain a life insurance policy on Ms. Reynolds, naming himself as the beneficiary.

[282] Under cross-examination, Mr. Thiessen explained that he purchased the policy as part of their financial planning. While he canceled his own policy, which would have benefited Ms. Reynolds, he stated that he did not intend to cancel hers. However, in closing submissions, he suggested he simply had not yet done so.

[283] Ms. Reynolds testified that one of Mr. Thiessen’s girlfriends warned her that her life might be in danger. She now seeks an order requiring Mr. Thiessen to cancel the policy immediately and provide proof of cancellation to the court.

[284] I order Mr. Thiessen to cancel the life insurance policy on Ms. Reynolds in which he is the beneficiary. Proof of cancellation must be provided by email to the Claimant’s counsel – ahayes@petralaw.ca within two days of cancelling the policy and in any event, no later than February 28, 2025. Mr. Thiessen’s share of the funds

held in trust by Baker Newby Law Firm shall not be released until he provides proof of cancellation.

Should Mr. Thiessen be fined for breaches of court orders, including spousal support arrears?

[285] Ms. Reynolds requests a \$2,500 fine against Mr. Thiessen for repeatedly failing to follow the January 2023 Consent Order, as permitted under the *FLA* ss. 213, 228, and 230.

[286] The *FLA* provides the Court with the authority to impose fines or make other orders to address non-compliance with court orders. For example, s. 228 of the *FLA* outlines available remedies where a party fails to comply with a conduct order made under Division 5. These remedies include the imposition of a fine not exceeding \$5,000.

[287] Section 230 of the *FLA* deals with enforcement more broadly. Pursuant to s. 230(1), orders under this section may only be made if no other provision of the *FLA* applies to enforce the order. Section 230(2)(b) permits the Court to make an order requiring a party to:

- a) pay a fine not exceeding \$5,000 (s. 230(2)(b)(iii)); or
- b) pay an amount not exceeding \$5,000 to or for the benefit of another party, or to a spouse or child impacted by the breach (s. 230(2)(b)(ii)).

[288] To establish a breach of a court order, the applicant must demonstrate three elements:

- 1) the order was clear and unequivocal regarding what was required or prohibited;
- 2) the party alleged to have breached the order had actual notice of the order; and
- 3) the breach was intentional.

(*T.A.O. v. D.J.M.*, 2021 BCSC 1724 at para. 48.)

[289] A breach must be proven on a balance of probabilities: *T.A.O.*, at para. 49. While the determination of whether there has been a breach is objective, the subjective intentions of the party alleged to have breached the order may inform the appropriate remedy: *C.A.L. v. D.E.L.*, 2018 BCSC 772, at para. 44. Where non-compliance is established, the Court may impose a fine or other sanction, particularly where it is necessary to demonstrate that breaches of court orders carry consequences: *C.A.L.*, at para. 48.

[290] Under s. 230, the court can impose fines up to \$5,000 for failing to comply with court orders. Section 228 allows fines for breaches of conduct orders, like failing to follow agreed communication terms, as outlined in past cases that emphasize strict enforcement to prevent unnecessary court delays.

Analysis

[291] There is sufficient evidence to establish that Mr. Thiessen breached the court order by failing to pay spousal support arrears for the months of April, May, and June 2024. The order was clear and unequivocal regarding his obligation to pay \$1,000 monthly in spousal support, and he had notice of the order through the January 2023 Consent Order. His non-payment appears to be intentional.

[292] Mr. Thiessen argues that his financial circumstances rendered him incapable of making the required payments. He asserts that rising interest rates, reduced income from his renovation business, and his limited financial resources left him unable to meet his obligations. While financial hardship may explain his non-compliance, it does not negate the breach. However, I acknowledge that financial incapacity is a mitigating factor when considering whether to impose punitive measures, such as a fine.

[293] The purpose of imposing fines or sanctions under the *FLA* is to underscore the seriousness of breaching court orders and to deter similar conduct in the future. Remedies must also align with principles of fairness and proportionality. Here, Mr. Thiessen's argument of financial incapacity and the lack of evidence suggesting bad faith or a deliberate intent to frustrate the court's authority weigh against

imposing a fine. His breaches appear to stem from genuine financial strain rather than a willful disregard for the Consent Order.

[294] In this case, I considered the spousal support arrears of \$12,174 owed to Ms. Reynolds in the redistribution of the funds held in trust. I find that enforcing the arrears directly through this redistribution is a more appropriate remedy than imposing an additional fine. This approach ensures that Ms. Reynolds is fully compensated while avoiding unnecessary financial penalties that could further burden Mr. Thiessen. Additionally, this decision seeks to sever the parties' ongoing financial responsibilities to each other, reducing the need for deterrence in this context.

[295] Accordingly, while Mr. Thiessen's non-compliance with the spousal support order constitutes a breach under the *FLA*, I find it unnecessary to impose a fine. Instead, the arrears of \$12,174 are enforced through the financial distribution, ensuring that Ms. Reynolds receives the amount owed without the imposition of additional punitive measures. This approach balances the need to enforce compliance with the realities of Mr. Thiessen's financial constraints.

DISPOSITION

[296] Upon hearing the parties and reviewing the evidence, the Court orders as follows:

Division of Family Property

Family Property

- a) Ms. Reynolds is entitled to \$49,241 from Mr. Thiessen as her share of the disputed family property.
- b) Specific assets are divided as follows:
 - i. **RV**: Classified as family property. Mr. Thiessen retains possession and credits Ms. Reynolds \$20,000.

- ii. **Snap-on Tools, Toolbox, Harley Lift:** Valued at \$13,500.
Mr. Thiessen keeps the tools and offsets Ms. Reynolds \$6,750.
- iii. **Coins and Cryptocurrency:** Divided equally. Mr. Thiessen owes Ms. Reynolds \$500 for foreign cash and \$500 to equalize the contents and value of the of the cryptocurrency wallet.
- iv. **Kal Gajoum Painting:** Mr. Thiessen retains the painting and credits Ms. Reynolds \$1,400.
- v. **Gold and Silver:** Divided equally in kind. Ms. Reynolds credits Mr. Thiessen \$750 for previously sold gold.
- vi. **Hockey Card and Stamp Collections:** Valued at \$12,500, with \$6,250 credited to Ms. Reynolds.
- vii. **Coins from Mary:** Ms. Reynolds keeps the coins and credits Mr. Thiessen \$1,000 to equalize their value.
- viii. **Generators and Pressure Washers:** Mr. Thiessen keeps the generators and pressure washers and offsets Ms. Reynolds by \$2,500;
- ix. **Avion Points:** Mr. Thiessen keeps the Avion points and offsets Ms. Reynolds by \$2,125;
- x. **Utility Trailer:** Mr. Thiessen keeps the trailer and offsets Ms. Reynolds \$250;
- xi. **2012 Ford Econovan:** Mr. Thiessen keeps the Econovan and offsets Ms. Reynolds \$2,500;
- xii. **Harley Davidson CVO:** Mr. Thiessen keeps the Harley Davidson CVO and offsets Ms. Reynolds by \$16,462;
- xiii. **Honda CR-V:** Ms. Reynolds keeps the Honda CR-V but offsets Mr. Thiessen \$14,747;

xiv. **CPP:** Each party retains their respective pension entitlements;

xv. **SSSI:** Mr. Thiessen retains SSSI as it is a non-marketable entity inherently tied to his ongoing involvement; and

xvi. **Mr. Thiessen TFSA:** Ms. Reynolds payment into Mr. Thiessen's TFSA loses its excluded status and Mr. Thiessen must offset Ms. Reynolds \$6,500.

c) **Miscellaneous Reimbursements:** Mr. Thiessen is ordered to reimburse Ms. Reynolds \$738 for ICBC-related refunds.

d) **Excluded Property:**

i. Mr. Thiessen's claims for the Dodge Ram 4x4 and certain collectibles are accepted as excluded property.

ii. Ms. Reynolds' RRSPs and jewelry retain excluded status where traceable. Withdrawals for family use are deemed family property. Mr. Thiessen must return all of Ms. Reynolds heirloom jewelry to her, including the necklace and pendant. Ms. Reynolds must return Mr. Thiessen's custom wedding ring.

Family Debt

e) **Debt Apportionment:** Mr. Thiessen is credited \$29,043 for his payments toward family debts.

f) **Occupational Rent:** Mr. Thiessen is credited \$8,000 post-separation housing costs.

Support

g) **Spousal Support:** Mr. Thiessen is ordered to pay a lump-sum spousal support payment of \$57,337, reflecting:

i. Imputed income of \$120,000 for Mr. Thiessen.

ii. Ms. Reynolds' imputed income of \$20,000.

This lump sum resolves ongoing spousal support obligations.

h) **Spousal Support Arrears:** Mr. Thiessen owes \$12,174 in arrears for unpaid support. This amount will be satisfied through the division of funds held in trust.

i) **Final Distribution of Trust Funds:** Of the \$450,941.98 held in trust, the parties shall receive:

i. Ms. Reynolds: \$315,917.99; and

ii. Mr. Thiessen: \$135,023.99.

j) **Life Insurance:** Mr. Thiessen must cancel the life insurance policy naming him as the beneficiary of Ms. Reynolds and provide proof by February 28, 2025. Funds held in trust shall not be released to Mr. Thiessen until compliance is demonstrated.

[297] The distribution above resolves all outstanding financial claims between the parties.

Costs

[298] Considering the mixed success in this matter, I direct that each party bear their own costs, subject to any offers exchanged of which I am unaware. If the parties wish to address costs or any other issues, they may do so by arranging a hearing through Supreme Court Scheduling.

“Sukstorf J.”