

CANADA / JUDGMENT

Krueger v. Evans

2025 BCSC 956

COURT

Supreme Court of British Columbia

DECIDED

22 May 2025

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2025 BCSC 956 Krueger v. Evans

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Krueger v. Evans,

2025 BCSC 956

Date: 20250522

Docket: E62769

Registry: New Westminster

Between:

Sarittakarn Krueger also known as Ann Krueger

Claimant

And

Jeff Robert Evans, Canada Innovative Financial Inc. and J.R. Evans Personal Real Estate Corporation

Respondents

Before: The Honourable Justice MacNaughton

Reasons for Judgment

The Claimant, appearing in person:

S. Krueger

The Respondent Jeff Robert Evans, appearing in person and on behalf of the Respondents Canada Innovative Financial Inc. and J.R. Evans Personal Real Estate Corporation:

J. Evans

Place and Date of Trial:

New Westminster, B.C.

April 8-12, 22-24, and 26, 2024

August 6-9, 2024

January 13-14, 2025

Place and Date of Judgment:

New Westminster, B.C.

May 22, 2025

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Introduction

- [1] Sarittakarn Krueger, who is also known as Ann Krueger, was born in Thailand. She moved to Canada with her first husband when she was in her 20s.
- [2] Ms. Krueger and Jeff Evans began dating in March 2006 and began living together in about June 2006. They married on September 9, 2006. Ms. Krueger is 52 years old, and Mr. Evans is 45 years old. They do not have any children.
- [3] On July 9, 2006, the parties entered into a lease agreement for Unit 13, 1020 West 71st Ave., in Vancouver (the "Apartment"). The parties lived in the Apartment throughout their marriage. Mr. Evans continues to live and work there.
- [4] On a date that was not clear on the record, Ms. Krueger rented a studio, or business office, at Unit 200, 2851 Simpson Road in Richmond, BC (the "Studio"). Apparently, Ms. Krueger continues to pay the rent on the Studio. The Studio address was used as a business address for various corporations owned by the parties as discussed later in these reasons.
- [5] The parties separated on either January 12 or January 16, 2021, when Ms. Krueger left the Apartment. The difference in the date is immaterial to the issues I have to decide.
- [6] The parties have few assets. They lived well beyond their means for much of their relationship and relied on credit cards, financing, student loans, and gifts or inheritances from Mr. Evans' mother. As of the date of separation, they did not own a family home; drove cars that were heavily financed; did not have significant retirement savings or investments, registered or otherwise; and were in significant debt.
- [7] During their time together, the parties started a number of businesses that were the subject of much of their dispute about property division. The income earned from the businesses was also an issue as it related to Mr. Evans' income for the spousal support Ms. Krueger alleges she is entitled to. Many hours of trial were spent on these issues.
- [8] Two of their businesses, Canada Innovative Financial Inc. ("Canada Innovative") and J.R. Evans Personal Real Estate Corporation ("Evans PREC") were named as corporate respondents in these proceedings. The corporations did not file responses. This is not surprising as both are personal services corporations through which the parties, and now Mr. Evans alone, earned income. Canada Innovative is no longer an operating company.
- [9] As will be seen, when the parties separated in early 2021, their family debt exceeded the value of their family property.

Issues

- [10] Both parties seek a divorce. I have the necessary evidence to grant one. I therefore grant a divorce to take effect 31 days after release of these reasons.
- [11] The only remaining issues for me to decide are:

- (a) Whether Ms. Krueger is entitled to spousal support and, if so, in what amount and for what duration?
- (b) What, if any, family property is to be divided?
- (c) What family debt is to be divided?

The Relationship

- [12] The parties' relationship was difficult and each party blames the other for that. At various times, Mr. Evans threatened to leave and, on a number of occasions did so, only to return. Ms. Krueger also left the relationship, on at least one occasion, but later returned.
- [13] Mr. Evans accuses Ms. Krueger of emotional abuse. He testified that he now considers her treatment of him as "gaslighting". He said Ms. Krueger gaslighted him to control him, make him believe that he was responsible for the problems in their relationship, and to diminish his self-esteem. He also suggested that Ms. Krueger suffers from mental health issues. He believes her to be financially irresponsible, and a hoarder.
- [14] Ms. Krueger accuses Mr. Evans of emotional and physical abuse. As to emotional abuse, she says that he repeatedly threatened to leave her or to kill himself. As to physical abuse, she described physical altercations between them, all of which were denied by Mr. Evans. Ms. Krueger never sought a protection order in this case. There was police involvement, but no charges were ever laid.
- [15] Whether the relationship was emotionally or physically abusive would only be relevant to the extent that it affected either party's ability to earn an income post-separation. While Ms. Krueger sought an unequal division of property because of the effect of emotional and physical abuse that she suffered at the hands of Mr. Evans, she did not prove that claim at trial. Both parties had emotional vulnerabilities that were the cause of much conflict. It is unnecessary to assign blame for the conflict in the parties' marriage because blame is not material to anything I must decide.
- [16] Both parties were self-represented at trial. At times, their anger and disappointment in each other and their relationship overwhelmed their ability to rationally present the evidence I needed to decide their issues. Ms. Krueger tended not to respond directly to questions asked by Mr. Evans, often going off on unrelated tangents. When she did respond, she was often confrontational. Mr. Evans was clearly frustrated by her refusal to answer his questions and by her cross-examination of him. As a result, I make this decision doing the best I can with the evidence I received. Where there are gaps in the evidence, I have considered which party had the burden of proof with respect to that issue.

- [17] I listened carefully to all of the parties' evidence and have considered all of the documents I was provided. For the most part, I have relied on the financial disclosure and information provided by Mr. Evans as Ms. Krueger's financial disclosure and information was incomplete and unreliable.
- [18] Despite Ms. Krueger's firmly held and often-repeated belief that Mr. Evans has hidden family wealth and income from her, the Canada Revenue Agency, and this Court in these proceedings, I found no evidence that he has done so.
- [19] Ms. Krueger points to bank account records for the parties' mortgage brokerage that show funds coming into that account and then being transferred into Mr. Evans' personal account. She says that those records establish that he was stealing from the brokerage.
- [20] I reject this argument. Those records do not prove theft, but rather show the regular and ongoing removal of funds paid into a personal services corporation that were then used to pay the parties' ongoing expenses. Ms. Krueger's fixed belief in the theft of these funds fueled her strongly held view that Mr. Evans has hidden family worth and is defrauding Canadian tax authorities. She was unable to prove those beliefs at trial.
- [21] Mr. Evans' financial disclosure is thorough and complete. His accountant may have made some errors in preparing the corporate tax returns but they were not readily apparent. They were also not meaningfully addressed in Ms. Krueger's cross-examination of Mr. Evans.
- [22] At trial, Ms. Krueger expressed disappointment that I would not order Mr. Evans to obtain a credit report which she said would give the court a true picture of his income and assets. Mr. Evans testified that he had never applied for a mortgage and there was no evidence to the contrary. As a result, there was no evidence that a credit report existed. A credit report was not a document in Mr. Evans' possession and control such that he was required to produce it. There is no requirement for a party to a family proceeding to obtain a credit report for the purpose of financial disclosure.
- [23] On three occasions, the parties obtained financing from banks. They financed for the purchase of a used Porsche, an Audi, and of a recreational vehicle ("RV"). The financing agreements for all three vehicles were in evidence. Mr. Evans applied for the financing as his credit was better than Ms. Krueger's. As a result, the vehicles, and the RV, were registered in Mr. Evans' name.
- [24] There is no dispute that the parties purchased the vehicles together or that the loan amounts were paid out of the family income while the parties were together. Mr. Evans paid for the loans after separation. There is a dispute, to be addressed later in these reasons, about whether the Porsche was a gift to Ms. Krueger.
- [25] With those introductory comments, I now turn to what the evidence did disclose.

Work History

Ms. Krueger's Work History

Banking Career

- [26] When the parties met, Ms. Krueger had worked for a number of years in the banking industry, most recently as a manager with HSBC Canada. In addition to her work in banking, she was also a professional makeup artist and worked in the film industry.
- [27] Sometime in 2000, Ms. Krueger attended John Casablanca's Institute to become a makeup professional. She agreed that she did not graduate and could not work as a unionized makeup professional on films. She testified that, even if she had graduated, she would have had to work for three years before she could join the union. She said that she worked as a volunteer on independent films. She agreed that she made \$3,000 on the film "Sweet America", but said that she gave it to the five makeup artists who worked for her on the film.
- [28] Ms. Krueger testified that she supported Mr. Evans when the parties began living together in her basement apartment. He was then employed as a squash professional, earning about \$600 a month from tournament winnings and instructing. Ms. Krueger says that she paid the rent and most of their expenses. When they went out for dinner with friends, Ms. Krueger gave Mr. Evans her credit card so that he could pay and would not be embarrassed by his inability to do so.
- [29] In December 2007, Ms. Krueger had the opportunity to become an RBC Mortgage Specialist. Mr. Evans encouraged her to take the job as he felt that Ms. Krueger had good sales skills and it would be a good fit with his mortgage brokering training (discussed below). According to Mr. Evans, Ms. Krueger was unsuccessful. The work was commission-based and she did not earn much in commissions.
- [30] In September 2009, Ms. Krueger was accredited as a mortgage professional by the Canadian Association of Accredited Mortgage Professionals.
- [31] In January 2010, Ms. Krueger obtained a temporary salaried position as a Senior Account Manager with RBC in New Westminster. Mr. Evans said the position was to backfill a maternity leave. After the position term ended, Ms. Krueger was offered a regular position with RBC, but it was a demotion with a decreased salary.
- [32] Ms. Krueger testified that, in 2012, Mr. Evans forced her to leave RBC to return to HSBC, where she was working when they met. The job was at a higher salary. He threatened to divorce her if she did not take the HSBC position. It is not disputed that she made the change. Nothing turns on why she did so.
- [33] Ms. Krueger was terminated by HSBC before her three-month probation period ended. The parties then agreed that she should take some time off work and she collected employment insurance for a year. She testified that she did not earn any income from the mortgage brokerage that they jointly owned at the time but had access to its credit card for expenses.

- [34] After the expiry of her employment insurance, Ms. Krueger was offered another position with RBC. She did not accept it because she said that Mr. Evans did not want her to.
- [35] At the time, in addition to working in banking, Ms. Krueger produced television programming for the Thai community. The programming ran on Shaw Community Television. She was not paid for this work and testified that she did it as a service to the Thai community. Ms. Krueger and Mr. Evans used her TV production company (discussed later in these reasons) and the programs she aired, to advertise their mortgage brokerage. In addition, they used the Studio as a business address, writing off some of the rental costs.

Career Change

- [36] In the fall of 2013, Ms. Krueger decided that she wanted to study hair design and enrolled in the London School of Hairdressing. She obtained student loans to fund her education. Unhappy with London's teaching method, she moved to the Vancouver Hairdressing Academy.
- [37] After graduating, rather than rent a chair in an established salon, Ms. Krueger wished to own and run her own a salon. The parties opened a salon, Sparkle Beauty House in 2016, which they owned and operated until it closed at the end of November 2020. The salon will be discussed in the property division part of these reasons when I address the various corporations the parties operated during their relationship.
- [38] On some date in 2018, Ms. Krueger became licensed as a sub-mortgage broker. She let this licence expire at the end of 2021 or sometime in 2022.
- [39] In April 2019, Ms. Krueger started Unique Talent and Model Agency Inc. ("Unique Talent"). She owned 100% of the shares. It too will be discussed later in the property division part of these reasons.

After Separation

- [40] At the time of the separation, Ms. Krueger was doing film set work.
- [41] On September 2, 2021, Ms. Krueger returned to work for RBC as a wealth manager. She remained there until August 22, 2022, when she was terminated, although she was paid until mid-December 2022. She earned a base salary of \$75,000 with a potential bonus of \$15,000. She never earned the bonus. Thereafter, and for about a month, Ms. Krueger worked as a delivery person for Canada Post before she was terminated.
- [42] Ms. Krueger testified that she lost both jobs as a result of Mr. Evans' repeated court applications, requiring her to take time off work. At various times in her evidence, she described the number of applications as being more than 40 and later as more than 50.

- [43] In fact, while many of the applications required a number of appearances, it appears that only six applications were filed by Mr. Evans in the course of these proceedings. There were only three court appearances that required Ms. Krueger's attendance at court between the date of separation and her termination by RBC. They were:
- a) a 45-minute judicial case conference on October 21, 2021;
 - b) an hour and 13-minute chambers application on April 5, 2022; and
 - c) a 40-minute oral judgment in respect of that chambers application on April 28, 2022.
- [44] On Ms. Krueger's behalf, counsel filed an application in June 2021. Counsel appeared at that application; Ms. Krueger did not.
- [45] I find that Ms. Krueger did not lose her RBC and Canada Post jobs as a result of Mr. Evan's applications. On the date she lost her job at RBC, the parties had each brought one application.
- [46] After her termination, Ms. Krueger received \$22,980 in employment insurance in 2023. Ms. Krueger testified that she was not able to look for a job. She asked if she could take leave from RBC but her request was denied. She says she is not well enough to work.
- [47] According to her evidence, Ms. Krueger has not had full-time employment since January 2023. She blames her inability to find work on this litigation and, in particular, Mr. Evans' conduct of it, and on a cyber attack that she says she suffered.
- [48] Dealing first with Mr. Evans' conduct of the litigation, I accept that there have been a number of court appearances in this file, but I do not fault Mr. Evans for that. On four occasions, costs orders and/or fines have been ordered against Ms. Krueger. In particular:
- 1) On November 17, 2022, Associate Judge Krentz ordered costs against her in any event of the cause.
 - 2) On February 3, 2023, Justice Taylor ordered costs in the amount of \$500 against her in the cause.
 - 3) On March 17, 2023, Associate Judge Keighley ordered costs thrown away in favour of Mr. Evans.
 - 4) On May 18, 2023, Justice Kirchner ordered a fine of \$1,500 under s. 213 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], and costs against Ms. Krueger for the application.
- [49] Dealing now the cyber attack, accepting that Ms. Krueger was cyber attacked, and that she has had restricted access to the internet and to email, Ms. Krueger did not testify about alternative steps that she took to look for work. I will discuss the cyber attack later in these reasons.

[50] Mr. Evans testified that Ms. Krueger moved in with friends after the parties separated. He told her that he would keep the bills paid for a while, about six months, while Ms. Krueger transitioned to being independent. During that period, he testified that he sent her money and left all his credit cards available for her to use. Based on the records in evidence, that I accept, he transferred \$17,604.40 in cash to Ms. Krueger between January 18, 2021, and June 7, 2021, and she incurred additional credit charges of \$12,423.75. Ms. Krueger did not cross-examine Mr. Evans about the records he produced in this regard.

Mr. Evans' Work History

Squash Professional

- [51] Mr. Evans has a diploma in hospitality management and was a professional squash player. In September 2023, he moved to British Columbia and worked as a server in a restaurant and at squash club, earning a base salary and fees from private instruction. Mr. Evans was frank about his lack of self-esteem and his unhappiness with his career.
- [52] On a date that was not clear in the evidence, but likely sometime in 2006 after he and Ms. Krueger were living together, Mr. Evans was laid off from the squash club.

Mortgage Broker

- [53] Ms. Krueger testified that, as a result of her work at RBC, she recognized that there was an opportunity for them to earn money as mortgage brokers and urged Mr. Evans to consider that as a career. In September 2006, Mr. Evans registered in the mortgage broker's course at the University of British Columbia. He graduated in April 2007 and became a registered broker. Mr. Evans' mother paid for his tuition and Ms. Krueger covered the parties' living expenses while he was in school.
- [54] From April to December 2007, Mr. Evans was employed as a broker with the Mortgage Centre, after which he moved to the Dominion Lending Group. He was self-employed, earning commission income only.
- [55] In about August or September 2009, the parties decided to open their own mortgage brokerage. The various iterations of that brokerage will be discussed in the property division section of these reasons.
- [56] Ms. Krueger said Mr. Evans was intelligent and he had strong computer skills. However, he lacked "soft" skills. He was not good at promoting himself, marketing, or dealing with clients. Ms. Krueger testified that she coached him in sales and marketing during the early stages of their mortgage brokerage business. She also assisted him with staff and client relations.

- [57] Ms. Krueger testified that she did not receive any money directly from the mortgage brokerage although she was a co-owner. She said that she did not make any decisions regarding the mortgage business without first speaking to Mr. Evans.
- [58] In early 2013, the mortgage brokerage was struggling. In September 2013, Mr. Evans enrolled in part-time computer science studies at Langara College. He later discovered that he was not suited to that field, and he returned to mortgage brokering.
- [59] Ms. Krueger testified that from 2017, until they separated in 2021, the parties' mortgage brokerage was doing well. It did not suffer as a result of Covid-19. She also testified that after separation, Mr. Evans cancelled their joint credit cards and removed Ms. Krueger from social media sites with respect to the mortgage business. Ms. Krueger also said that she learned that prior to, and at separation, Mr. Evans transferred funds from the parties' joint business account into his personal account.

Real Estate Licence

- [60] In 2018, Mr. Evans obtained his real estate licence and, in May 2018, joined Sutton Group as a realtor.
- [61] On December 31, 2019, Mr. Evans incorporated the respondent, Evans PREC. Initially, the parties were both shareholders. He was the sole director. At some point, Ms. Krueger became a non-voting shareholder as only licensed real estate agents were permitted as shareholders in a personal real estate corporation.
- [62] Mr. Evans left Sutton Group in 2021. He then moved to a few different brokerages until he joined eXP Realty in October 2022. As of September 2024, he had rejoined Sutton Group.
- [63] Mr. Evans testified that most of his current income is from mortgage brokering, not real estate.

Credibility of the Parties

Legal Principles

- [64] As Justice Dillon set out in *Bradshaw v. Stenner*, 2010 BCSC 1398 at para. 186, aff'd 2012 BCCA 296, leave to appeal to SCC ref'd, [2012] S.C.C.A No. 392, "Credibility involves an assessment of the trustworthiness of a witness' testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides".
- [65] At para. 186 of *Bradshaw*, Dillon J. explained that the assessment of credibility first involves assessing a witness' evidence on a stand-alone basis by examining various factors, including:
- a) the witness's ability and opportunity to observe events;
 - b) the firmness of the witness's memory;
 - c) the witness's ability to resist the influence of interest to modify their recollection;

- d) whether the witness's evidence harmonizes with independent evidence that has been accepted;
- e) whether the witness changed their testimony during direct and cross-examination;
- f) whether the witness's testimony seems unreasonable, impossible, or unlikely;
- g) whether the witness had a motive to lie; and
- h) the witness's general demeanor.

- [66] In the final analysis, if a trier of fact accepts a witness's evidence as being generally credible, they should then compare that evidence with other evidence to determine whether it is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time: *Faryna v. Chorny*, [1952] 2 D.L.R. 354 at 356, 1951 CanLII 252 (B.C.C.A.).
- [67] Credibility assessments are more of an "art than a science" and are "particularly daunting where a judge must assess the credibility of two witnesses whose testimony is diametrically opposed": *R. v. S. (R.D.)*, [1997] 3 S.C.R. 484 at para. 128, 1997 CanLII 324. The reasons for believing or disbelieving a witness may be difficult for the trier of fact to articulate: *R. v. R.E.M.*, 2008 SCC 51 at para. 49; *R. v. Mohsenipour*, 2023 BCCA 6 at para. 210.
- [68] In making credibility assessments, I am permitted to use common sense and the wisdom gained from observing the witnesses throughout this proceeding, provided that my assessment is not grounded in generalizations, issues not in evidence, emotional evaluations, stereotypes, or other impermissible forms of reasoning: *S. (R.D.)* at para. 129; *R.C.T. v. A.K.T.*, 2023 BCSC 654 at para. 11.
- [69] There is a distinction between the credibility of a witness' evidence and its reliability. In *R. v. Morrissey*, 22 O.R. (3d) 514 at 526, 1995 CanLII 3498 (C.A.), Justice Doherty explained the distinction as follows:

Obviously a witness whose evidence on a point is not credible cannot give reliable evidence on that point. The evidence of a credible, that is, honest witness, may, however, still be unreliable.

Findings on Credibility

- [70] Overall, I found Mr. Evans to be a credible and reliable witness. His evidence was supported by the extensive documents he introduced into evidence. Nevertheless, he tended to focus on the negative aspects of his life with Ms. Krueger and on blaming her for everything that he thinks went wrong in their relationship. I have factored that negativity into my assessment of his evidence.

[71] I found Ms. Krueger to be less credible and certainly less reliable than Mr. Evans. It was very difficult to keep her on track in her direct testimony. She did not respond well to cross-examination. She tended not to answer the questions she was asked, responding with speeches and questions for Mr. Evans. Her evidence was affected by her strong belief that Mr. Evans is hiding his wealth.

[72] One example of many will suffice.

[73] Despite a number of court orders requiring her to provide the documents in her possession about the salon to June Silvester, the accountant who was to prepare the financial statements, Ms. Krueger did not comply. As an explanation for her failure to comply, at one point in her evidence, Ms. Krueger said:

I believe that if someone is trying to fraudulent the tax as the Canadian citizens, I do have the right to protect the country, protect the government, and protect myself in particular. Writing off income tax is allowed and normal for business owner but stealing from someone and use it for their own gain and do everything at all cost to do that to your own business partner and a wife, I don't think it's acceptable as a Canadian citizen.

I do have the right to protect the country.

[74] On April 22, 2024, when Ms. Krueger was asked in cross-examination, whether Ms. Silvester asked her to provide all bank statements for the salon from 2015 to the present, Ms. Krueger responded:

She required, but I also already said that I did not agree in the first place. You guys did not leave me a chance to appeal the decisions. I was framed to agree.

[75] When it was put to Ms. Krueger that she did not provide all the bank statements to Ms. Sylvester as she had been ordered to, she responded:

No, because CRA told me I don't have to. I did what CRA suggested me. I request for audit.

[76] When it was put to Ms. Krueger that she did not want to provide bank statements prior to 2017, she responded:

I don't feel that it's safe for me to provide or cooperate with any of you guys to cheat the tax. And that harm me. You literally put me at harm.

According to my conversation with CRA when I first--initial to call them, obviously I know exactly why you would require 2015 and '16. CRA mentioned to me that I can file '17 to the date of closing without any problem and go back and file statement of adjustment, knowing what's going on in my situations.

So, I went with an expert which is CRA. They were the one who--telling me.

- [77] Ms. Krueger first agreed to produce the salon financial documents for 2017 to present, and to jointly retain an accountant to prepare the salon's T2 income tax returns, at an October 21, 2021 judicial case conference. When that consent order was not complied with, despite repeated requests from Mr. Evans, in April 2022 Justice Gibb-Carsley ordered a process for the retention of an accountant and for the disclosure of the records. The same issues were then dealt with on applications on September 21, October 5, and November 17, 2022, and again on February 3 and May 18, 2023.
- [78] The fact is that Ms. Krueger had been ordered by this court to provide the records on a number of occasions. She was not framed to agree. She did not appeal the orders, but instead chose to ignore them based on unproven, hearsay, advice from an unnamed person at the CRA.
- [79] To the extent possible, I have relied on documents to support my findings of fact. I do not accept Ms. Krueger's evidence that she was afraid of Mr. Evans. Post-separation, she attended at the Apartment, they met on several occasions, worked on a film as a couple, and Ms. Krueger joined Mr. Evans on an inflatable boat that he had purchased. There was nothing in the dynamic of this relationship that I observed that indicated that Ms. Krueger was afraid. In fact, based on my observations of their dynamic over the many days of trial and based on the evidence in respect of the salon (discussed later in these reasons), I think it likely that she was the dominant partner in this relationship.

Spousal Support

Legal Principles Applicable to Spousal Support

- [80] In her notice of family claim, Ms. Krueger seeks spousal support from Mr. Evans. She does not specifically seek retroactive spousal support. Ms. Krueger does not specify in her notice of family claim whether she is seeking spousal support under the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) [DA] or FLA. She checked both boxes. As the parties are married, I will consider her application under the DA.
- [81] Section 15.2(4) of the DA requires that the amount and duration of spousal support be determined on consideration of the conditions, means, needs and other circumstances of each spouse, including the following:
- (a) the length of time the spouses cohabited;
 - (b) the functions performed by each spouse during cohabitation; and
 - (c) any order, agreement or arrangement relating to support of either spouse.
- [82] The objectives of an order for spousal support are set out in s. 15.2(6) of the DA:

Objectives of spousal support order

- (6) An order made under subsection (1) or an interim order under subsection (2) that provides for the support of a spouse should
- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
 - (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
 - (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
 - (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.
- [83] There are three bases for entitlement to spousal support: contractual, compensatory, and non-compensatory: *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420 at para. 37. There is no contractual claim in this case.

Basis for Ms. Krueger's Spousal Support Claims

- [84] Taking her submissions broadly, Ms. Krueger submits that she is entitled to spousal support on both a compensatory and non-compensatory basis.

Compensatory Claim

- [85] Ms. Krueger's compensatory support claim seems to be based on her contribution to Mr. Evan's transition from being a professional squash player to obtaining his mortgage broker's and real estate licences and, thereafter, based on her contributions to their joint businesses and his career in both fields.
- [86] In determining whether a spouse is entitled to compensatory support, the court must consider whether the spouse has suffered economic disadvantage as a result of the marriage or its breakdown: *Moge v. Moge*, [1992] 3 S.C.R. 813 at 861, 865, 1992 CanLII 25.
- [87] Compensatory support is intended to redress the economic disadvantages and advantages arising from the marriage or its breakdown. It recognizes the sacrifices made by the recipient spouse in assuming primary childcare and household responsibilities, often resulting in a lower earning potential and fewer prospects for financial success: *Moge* at 860-862; *Bracklow* at para. 39. The first two objectives set out in s. 15.2(6) of the DA primarily relate to compensation.
- [88] The case authorities establish that no single basis for support or objective under the DA supersedes the other and many claims involve aspects of both compensatory and non-compensatory support: *Chutter v. Chutter*, 2008 BCCA 507 at para. 49, leave to appeal ref'd, [2009] S.C.C.A. No. 41.

Non-Compensatory Claim

- [89] Non-compensatory support is based on a social obligation model of marriage and the concept that, upon marriage dissolution, a former spouse is primarily responsible for meeting the needs of a disadvantaged spouse. Non-compensatory support aims to narrow the gap between the needs and means of the spouses, recognizing that the concept of need goes beyond the basic necessities of life and varies according to the circumstances of the parties.
- [90] Ms. Krueger's non-compensatory support claim is based on her submission that she has been unable to move on from the breakup of the relationship while Mr. Evans has successfully done so. On her evidence, Ms. Krueger has not achieved financial self-sufficiency in the more than three years since separation. She says that Mr. Evans has all the family wealth.
- [91] In *Moge*, Justice L'Heureux-Dubé explained that the doctrine of spousal support, which focuses on the equitable sharing of the consequences of marriage breakdown, does not guarantee that either party will maintain the marital standard of living post-separation. However, the marital standard of living "is far from irrelevant to support entitlement. [a]s marriage should be regarded as a joint endeavour, the longer the relationship endures, the closer the economic union, the greater will be the presumptive claim to equal standards of living upon its dissolution": *Moge* at 870. That said, spousal support is not to be used as "a general tool of redistribution which is activated by the mere fact of marriage": *Moge* at 864.

Conclusion on Spousal Support

- [92] I find that Ms. Krueger is not entitled to spousal support on a compensatory basis. There is no reliable evidence that she suffered any economic disadvantage as a result of the marriage or that she conveyed economic advantages to Mr. Evans. She did not sacrifice any career opportunities to take on more of the household responsibilities and the parties have no children.
- [93] Ms. Krueger and Mr. Evans were adults leading independent lives when they met. They were both employed prior to and during their marriage. They supported each other through various periods of training and career transitions. Ms. Krueger never sacrificed her career for the marriage and her opportunities for career advancement were never hindered by the marriage or its breakdown. She blames Mr. Evans for her leaving RBC to move to HSBC, but her career did not suffer because she chose to leave banking and retrained as a hair stylist. Mr. Evans supported her emotionally and financially through his general contracting work in building and opening the salon. When the salon was unsuccessful, he used money from the mortgage brokerage business, and borrowed additional money, to support it for the years it was in operation.

- [94] I understand from her evidence that Ms. Krueger wishes she had never left RBC, but that decision was made many years ago. In any event, I note that by August 2021, Ms. Krueger had returned to RBC and worked there until August 2022, earning a salary of \$75,000 that was paid until December 2022.
- [95] I accept Ms. Krueger's evidence that she assisted Mr. Evans with customer and staff relations and some marketing with respect to Canada Innovative, their mortgage brokerage. She was not paid for that contribution but, to the extent that she benefited from the commissions that Canada Innovative earned, and which were used to fund the parties' living expenses, she has already benefitted from her contributions. The nature of her contributions do not support a claim for compensatory support.
- [96] The economic consequences of the marriage, as discussed later in these reasons with respect to the division of property, have been devastating to both parties.
- [97] Where, as in this case, non-compensatory principles apply, Ms. Krueger submits that need alone may establish entitlement to non-compensatory support. The concept of need is flexible and contextual. It goes beyond the necessities of life and varies with the circumstances of the parties, including the marital standard of living and the other spouse's post-separation standard of living: Chutter at paras. 55, 57; H.C.F. v. D.T.F., 2017 BCSC 1226 at para. 212; Loesch v. Walji, 2008 BCCA 214 at paras. 39-41.
- [98] In this case, Ms. Krueger says that she has suffered economic hardship because of the breakdown of the marriage. She points to what she says is the disparity between her income and Mr. Evans' income post-separation.
- [99] In Lee v. Lee, 2014 BCCA 383, the Court of Appeal considered entitlement to non-compensatory spousal support based on spousal disparity of income. The parties had been married for 20 years but had no children. Following an accident in 2004, the husband worked part time and although he claimed earnings of less than \$20,000, there was some uncertainty about his income. The wife earned \$120,000 a year. The husband had a new partner who earned between \$75,000 and \$90,000, plus overtime.
- [100] The trial judge dismissed the husband's spousal support claim on both compensatory and non-compensatory grounds. Justice Newbury, writing for the majority generally upheld the trial decision, but reversed the trial judge's order that the husband repay the spousal support he received from his wife on a voluntary, interim basis.
- [101] Justice Newbury reviewed the cases regarding non-compensatory support, including Bracklow. She described the facts in Bracklow as atypical. In Bracklow, the Court concluded that the wife was eligible for support based on the length of cohabitation, the hardship imposed on her by the marriage breakdown, her palpable need, and the respondent's financial ability to pay. By the time of their divorce, the wife was subsisting on modest support payments and CPP disability benefits while the husband earned annual employment income of \$44,000: Lee at para. 48.

[102] Justice Newbury observed that in Bracklow, the court found support for the non-compensatory model of spousal support in s. 15.2 of the Divorce Act. Bracklow emphasized, in contrast to Moge, the need to weigh and balance the various factors in s. 15.2(4) of the Divorce Act, and to consider both the mutual obligation and the clean break models of marriage breakdown and spousal support, without preferring one over the other: Lee at paras. 51-52

[103] Justice Newbury then reviewed Professor Carol Rogerson's criticisms of "these broad aspects" of Bracklow as follows:

[54]

The extent of the support awarded under the Bracklow framework will ultimately depend on how need is interpreted and how need is balanced with a host of other factors, such as the length and nature of the relationship and the value of allowing the payor to move on with his life and take on new commitments.

With Bracklow's clear recognition of non-compensatory support, entitlement is effectively no longer a serious issue in spousal support. Even if there is no compensatory basis for support, "need alone may be enough" to ground an award of support; and if need is interpreted broadly to cover any significant drop in standard of living, the basis for entitlement is very broad.

[Emphasis in original.]

See also Carol Rogerson, "Spousal Support Post-Bracklow: The Pendulum Swings Again?", (2001) 19 Can. Fam. L.Q. 185 at 223.

[104] Justice Newbury concluded that post-Bracklow, our Court of Appeal, and other provincial appellate courts, expanded the concept of "need" far beyond what is necessary to ensure that an applicant for support will not become a burden on "the government": Lee at para. 55. She referred to Yemchuk v. Yemchuk, 2005 BCCA 406, where the Court of Appeal said:

[50] While equalization of the standards of living of the parties is not a stated objective of spousal support, in long-term marriages in which the parties have approached their roles as a partnership where each contributed their various resources, both economic and non-economic, to the relationship, equality of standard of living (which is not the same as equality of income) may well be the just result.

[105] Despite Bracklow's expansive approach to need, Justice Newbury noted that British Columbia cases have not awarded spousal support based solely on income disparity or even based solely on the non-compensatory model: Lee at para. 60. She noted the Ontario Court of Appeal's conclusion that differential in income alone did not provide a basis for awarding spousal support: Farrar v. Farrar, 63 O.R. (3d) 141 at para. 55, 2003 CanLII 15943 (C.A.).

- [106] Justice Newbury concluded that, if the husband in Lee had not been in a new relationship, British Columbia cases would have permitted an award of spousal support to him, given the length of the parties' marriage and the expansion of the meaning of "need". However, refusing support in such circumstances would not have been a "material error" in law or a wrong exercise of discretion. She wrote:
- [65] To rule as a matter of law that Mr. Lee should be compensated indefinitely for the "loss" of the ability to share in Ms. Lee's income and lifestyle would, taken to its logical conclusion, mean that support must be ordered on one model or the other in virtually every case that comes before the court. The concept of need (in the true sense) of the applicant spouse would be supplanted by the sole criterion of the respondent spouse's ability to pay. Marriage would, contrary to what was said in Moge, automatically entitle a spouse to the standard of living enjoyed during the marriage, or as much as the payor could afford. I respectfully agree with Professor Rogerson's suggestion, and with the Court in Griffiths, *supra*, that this cannot be correct. A 'clean break' is clearly possible in this case, and again as stated in Moge, the mere fact of marriage or its breakdown does not activate a "general tool of redistribution." As far as I am aware, this principle has not been overruled.
- [Emphasis in original.]
- [107] Similarly, in *Elias v. Elias*, 2006 BCSC 124, the husband sought spousal support on the basis that his wife's income was twice as much as his. The parties had been married for 24 years, and their youngest child was almost 19 at trial. Both parties worked throughout the marriage and were self-supporting. The court found the husband was not entitled to spousal support and said that even with a long-term marriage, equalization of lifestyle or income is not required because "[w]hile a disparity in lifestyle will need to be addressed, no cases have held that lifestyle or incomes have to be equalized": at para. 65.
- [108] On the evidence in this case, I am satisfied that Ms. Krueger was entitled to spousal support from the date of separation until she began full time work with RBC in August 2021, a total of seven months. The salon closed in November 2020 and, by the date of separation, Ms. Krueger was working in film and supporting her Unique Talent Agency clients. However, she was not earning enough to support herself.
- [109] Mr. Evans testified that he recognized that Ms. Krueger would need assistance during the early days and months after their separation, and he provided it by e-transferring cash to her and allowing her access to his credit cards. He stopped allowing her to use his credit cards when he became concerned about her spending.
- [110] As discussed below, by August 2021, Ms. Krueger obtained full-time employment at RBC, earning income equivalent to that earned by Mr. Evans. Mr. Evans was not responsible for Ms. Krueger's loss of the RBC job in August 2022. She received salary continuance until December 2022. On the evidence, she has done little to obtain full-time work after December 2022.

Determination of the Parties Incomes

- [111] The Spousal Support Advisory Guidelines ("SSAG") state clearly that the starting point for determining income is the Federal Child Support Guidelines, S.O.R./97-175 ("FCSG"). Sections 15-20 of the FCSG, along with Schedule III, provide the applicable framework.
- [112] Generally, the starting point is the parties' line 150 (now 15000) incomes: FCSG, s. 16. The court may also impute income to a spouse who is intentionally under-employed: FCSG, s. 19(1)(a). In fact, the SSAG provide that the income imputing provisions in s. 19 of the FCSG are, if anything, even more important in spousal support cases than in child support cases. The SSAG are income-based guidelines and require careful attention not only to a spouse's income, but also to their income-earning capacity. The court should ask what income this recipient, with their experience, education, and qualifications, has the reasonable capacity to earn.
- [113] I will first determine Mr. Evans' income for support purposes and then consider whether income should be imputed to Ms. Krueger.

Mr. Evans' Income

- [114] Mr. Evans' F8 Financial Statement exhibited his complete income tax returns for 2021-2024. Included in his disclosure are the financial statement for his mortgage brokerage and his personal real estate corporation for those four years. Mr. Evans deducted certain business expenses from his income to arrive at net income figures for the corporations.
- [115] As the Court of Appeal said in *Beninger v. Beninger*, 2007 BCCA 619 at para. 29, "Generally speaking, ... where there is a significant challenge to income or expenses claimed by one party, the evidence is tested through cross-examination of the party whose evidence is challenged". It was open to Ms. Krueger to question Mr. Evans about the expenses his accountant deducted from the revenue in his two personal service corporations--through which he earns his income--to identify any such deductions that were arguably unreasonable. She did not do so.
- [116] I wish to deal with the corporations owned by the parties, particularly Ms. Krueger's submission that Mr. Evans is hiding their family wealth. I have reviewed the corporate income tax returns provided by Mr. Evans and see no evidence of hidden wealth.
- [117] Ms. Krueger obliquely raised the issue of Mr. Evans' inappropriate business deductions in her questioning of Mr. Evans and in her submissions. Having raised the issue, Mr. Evans has the burden of establishing the reasonableness of the deductions: *M.T. v. J.S.*, 2023 BCCA 64 at para. 8.

- [118] In order to assess Mr. Evans' guidelines income, business deductions may be added back to his income because they provide a personal benefit to him or were for ordinary living expenses and would usually be paid from his pure employment income. Examples might include meals, entertainment, telephones, internet, vehicle expenses and travel. However, in this case, Mr. Evans was not cross-examined about any specific expenses.
- [119] Mr. Evans deducts from his income a portion of the cost of his rental accommodation. He uses his home as his base of operations for his mortgage brokerage. If he did not, he would have an expense for rental business premises.
- [120] Mr. Evans deducts motor vehicle expenses. He explains that he uses his vehicle, the Audi, which is financed, to show homes and to meet with clients. I accept that he does so.
- [121] Mr. Evans deducts the cost of computers, printing and digital licenses for the applications that he uses, the cost of advertising, including for his website, his professional fees, and his accounting fees. None of the amounts deducted appeared to be unusually high and all appeared necessary for his business purposes.
- [122] Mr. Evans' means, needs, and circumstances have not changed since separation. Both before and after separation he has continued to pursue the two avenues of income that were available to him prior to the breakdown of the marriage: working as a mortgage broker and in real estate. He does so through personal services corporations. The corporations themselves hold no assets, they are merely the vehicle through which Mr. Evans earns his income.
- [123] From 2019 to 2023, Mr. Evans' taxable income, after deductions, was between \$35,621 and \$73,240. His line 15000 gross annual income from 2019 to 2023 was \$58,114 to \$62,752.
- [124] In his closing submissions, Mr. Evans has, fairly in my view, set out a chart of his last three years' income, adding back a portion of deducted expenses in seven different categories. It provides as follows:

2021

2022

2023

Line 15000 Income

\$55,990.00

\$54,964.00

\$62,752.00

Capital Cost Allowance

\$7,431.49

\$5,202.04

\$3,641.43

Business use of home

\$2,553.37

\$2,477.70

\$7,688.21

50% of vehicle expenses

\$2,435.29

\$4,512.96

\$4,521.44

50% of meals and entertainment

\$3,265.16

\$3,533.32

\$2,495.09

50% of Telephone

\$1,870.14

\$442.46

\$734.50

Employee Benefits

\$2,267.00

Travel Expenses

\$1,159.86

\$3,547.00

Total:

\$75,813

\$72,292

\$85,380

[125] I have rounded Mr. Evans' Line 15000 income for each fiscal year to the nearest dollar. Accepting Mr. Evans' proposed 50% addback of deducted expenses in the seven categories listed above, I have recalculated his annual income for the purposes of spousal support: see *M.T. v. J.S.*, 2023 BCCA 64 at para. 17. Based on a three-year average, Mr. Evans' income is \$77,828. I have used a three-year average because, due to market trends, his commission income from both mortgage brokering and real estate has fluctuated in amount and proportion over time.

Ms. Krueger's Income

[126] Ms. Krueger's income is more difficult to ascertain. Her first F8 financial statement was filed on October 18, 2021. In it, she said her income tax returns were not attached because they were not up to date. She said she would provide the returns and her notices of assessment to Mr. Evans "as soon as they are available". The returns were never filed and never provided. In her evidence, Ms. Krueger said that CRA told her she did not have to file them.

[127] Based on the parties' text exchanges between January and May 2021, it is clear that, at that time, Ms. Krueger was earning some income in the film industry. Nevertheless, she was asking for Mr. Evans' financial assistance.

[128] In her October 2021 F8, Ms. Krueger said that she had recently started new employment as a Manager in Wealth Management at RBC at a base salary of \$75,000 and with eligibility for a performance bonus. She continued to be paid a salary by the RBC until December 2022. She calculated her income to be \$78,280 for spousal support purposes, including \$3,000 in earnings from her talent agency. She indicated that she was paying \$1,000 a month for rent or mortgage and a further \$1,000 to rent an office space. I understand the office space to refer to the Studio. Her food and meals outside the home totalled \$2,000 a month. In total, her annual expenses came to \$126,197.

[129] In an updated F8 financial statement dated April 2, 2024, which was provided to Mr. Evans prior to the start of the trial, Ms. Krueger indicated that she was not earning any income. She listed total outstanding debts of \$182,100. She said she was paying \$1,200 a month for the Studio, \$300 a month for utilities, and \$800 a month for storage. Her outstanding debts on credit cards was \$91,100, although the credit cards and the amounts were not itemized or listed. She indicated that she was paying 3% of the outstanding credit card amounts in minimum payments. She testified that she did not provide further statements of her credit cards because, due to her meeting with CRA, they "suggested" to her that she did not have to answer to Mr. Evans about her financial situation or her tax situation.

[130] In her Form 8, Ms. Krueger listed unpaid legal fees of \$35,000 and \$56,000 in loans she had received from friends. On February 3, 2023, the loans from friends totalled \$30,300. At first, in cross-examination, she acknowledged that she did not then owe money to lawyers as they had been paid. She later testified that she is still in a legal dispute with one of her former lawyers. She lists her total annual expenses as \$85,020.

[131] There were no income tax returns attached to the April 2024 F8. When asked in cross-examination about why there were no documents attached, Ms. Krueger said:

Correct. Because I already told you that CRA mentioned to me that I will only report my income tax situation with them and therefore the fact that I indicated personal loans from friends and associates and people that helped me

[132] When asked in cross-examination about why she continued to pay for rent on the Studio, she relied on the terms of Justice Shergill's June 23, 2021 property preservation order under s. 91 of the FLA. The property preservation order did not require Ms. Krueger to continue to pay for the Studio. The fact that the parties previously wrote off part of the cost as a business expense does not make it property belonging to the business. She would not concede that the s. 91 order did not require her to pay expenses.

[133] When assessed in totality, Ms. Krueger's evidence did not add up. With zero income, and expenses of \$85,020 a year, it did not make sense that the amount she owed to friends had increased by only \$25,000 in the year between February 3, 2023 (when she itemized \$30,300 in loans from friends), and her April 2024 F8 (in which she listed \$56,000 in loans from friends).

[134] Ms. Krueger alludes to a cyber attack and police advice to her that "digitally" she cannot go online. When it was put to her in cross-examination that she did not know whether a prospective employer would question her alleged cyber attacks and identity theft she responded:

Everyone will ask about the disclosure. First of all, when you apply, they ask, 'What is your email address? What is your cell phone number?' And when you say, 'I don't have any email that I can use right now,' in today's digital world, is odd.

And basically if I don't disclose everything to my employer, as I said yesterday, it will be as-- appear as being dishonest and selfish to put them into danger. And of course, if I disclose, they're going to going to ask more detail about it and that's going to jeopardize, of course, my job opportunity. 100 percent.

[135] She also alludes to health difficulties that have prevented or interfered with her ability to work but provides no reliable evidence in support of that submission. The only medical note that she provided was dated August 23, 2022, from the Kwantlen Walk-in Medical Clinic and it said:

This patient was seen at this clinic today with a medical problem/illness, and should rest a home for the next 2 weeks to recover, pending clinical reassessment.

[136] Attached to the note is an almost illegible partial document dated March 23, 2023 that provides, insofar as it is readable:

Primary Diagnosis: adjustment disorder

Secondary Diagnosis: anxiety

It indicates that Ms. Krueger's symptoms were moderate and indicted that she could "not currently" return to work. It also indicated that Ms. Krueger could not work from home and there were no work-related issues that prevented Ms. Krueger from returning to work.

[137] Ms. Krueger testified that after losing her job at RBC she applied to two or three banks but: because of the condition that I have from the doctor, I did not pursue any of those options because of the disability that the doctor suggested I should be recovered.

[138] On the basis of that scant written record, I cannot find that Ms. Krueger was incapable of working for six months after March 2023.

[139] Ms. Kreuger blames the loss of her post-separation jobs at RBC and Canada Post on the number of applications brought by Mr. Evans in this litigation. In submissions, she suggested that there had been 53 such applications. That is an exaggeration. As I have set out, both parties brought one application in the period between separation and Ms. Krueger's loss of employment with RBC.

[140] By my count, in this proceeding, Mr. Evans brought six applications in total, some of which required repeat appearances. Often repeat appearances were due to Ms. Krueger's actions. Two examples will suffice. First, several court appearances were necessary due to Ms. Krueger's refusal to return to Mr. Evans the financed Porsche that she alleged was a gift, even when she was financially unable to maintain or operate it and required by court order to contribute to the cost of insurance. Second, as I have already set out Ms. Krueger did not provide the records necessary for Ms. Silvester to prepare the income tax returns for Sparkle Beauty House Inc. ("Sparkle"), the parties' beauty salon business. A series of appearances were required in that regard.

[141] I do not have reliable income tax or employment information from Ms. Krueger. She was focusing on film work when the parties separated.

[142] Shortly after separation, she obtained work with RBC and she was paid by them until December 2022. She testified that she worked in retail over the holiday season in 2024 and is now enrolled in course work in the area of cyber crime. She did not testify about any other jobs that she has applied for.

- [143] Ms. Krueger testified that she has "trauma and adjustment disorder". She has not provided any medical reports or an expert's opinion to substantiate her claim that she is unable to work and there is no evidence that she has applied for disability income supports. When asked about medications that she was taking, she referred to ibuprofen, an over-the-counter pain medication. There is no medical evidence to support that Ms. Krueger has mental health issues and she denies that she is a hoarder.
- [144] The evidence discloses that Ms. Krueger has many marketable skills. During her work life, Ms. Krueger has held various banking positions, including at the account manager level, with a number of different financial institutions.
- [145] In addition to her banking experience, Ms. Krueger is a trained hairdresser, esthetician, and make-up artist. She is a qualified mortgage broker, although her license has lapsed. She has television production experience and has worked as a photographer. She has experience as an actor and as a talent agent. She has demonstrated that she has sales skills.
- [146] In her evidence, Ms. Krueger testified that she was important to Mr. Evans' career and businesses, both with respect to his customer and staff relations and marketing. In cross-examination, she testified that she was highly skilled in sales but was not comfortable doing sales at present due to what Mr. Evans "had put her through". She testified that because she did not have an email or cell phone, she was unable to apply for work online and could not get a job until "that was resolved".
- [147] When I asked her whether she was suggesting that Mr. Evans was responsible for the cyber-attack, Ms. Krueger was equivocal. At first, she clearly said that he was not involved. Later, she suggested that she had five suspects and that she had released other evidence to the police but did not want to refer to it in the family case.
- [148] Ms. Krueger has not provided her personal income tax returns or those for the corporations that she controls. She testified that the CRA told her not to worry about filing tax returns in this proceeding. It seems improbable that she received that advice from the CRA. As the claimant in this proceeding, Ms. Krueger had an obligation to prove her claims including her income. She has not done so.
- [149] Ms. Krueger has not provided any bank statements from her personal bank accounts supporting her claims that she is not earning income or paying her expenses.
- [150] I recognize that Mr. Evans promised to support Ms. Krueger when they separated. While he did not formally provide her with spousal support, in the months following separation, he transferred \$17,604.40 to her for which he did not get a spousal support tax deduction and on which Ms. Krueger did not pay tax. He allowed her to use their credit cards for five months after separation. She made \$12,423.75 in purchases in that period before he stopped her access to them. Again, Mr. Krueger paid for those credit cards bills out of his after tax income.

- [151] Based on her Form 8 Financial Statement earnings of \$3,000 in 2021, before she started working for RBC, Mr. Evans transferred more money than Ms. Krueger was entitled to in spousal support based on Mr. Evans' income of \$75,812.61.
- [152] Based on Mr. Evans' income rounded to \$76,000 and Ms. Krueger's income of \$3,000, the range of monthly spousal support, at the low end of the range, is \$1,323, at the middle of the range is \$1,544, and at the high end of the range is \$1,764. For eight months, Mr. Evans would have paid \$14,112 at the high end of spousal support. His e-transfers to her totalling \$17,604.40, exceeded what he would have been required to pay.
- [153] By September 2, 2021, Ms. Krueger had returned to work for the RBC at an annual salary of \$75,000, an amount that was equivalent to what Mr. Evans was earning.
- [154] There is no evidence to support the proposition that Ms. Krueger has been completely or substantially incapable of working in any capacity from the date on which she lost her job with RBC in 2022. When asked why she was not working, she said that she had been cyber attacked, stalked, and had her identity stolen. She provided no evidence that employers will not hire her due to these difficulties.
- [155] Ms. Krueger testified that she had been trying to find another job until she was cyber attacked and that she and the police agreed that she should not be on the internet. She testified that employers would find it odd that she did not have an email address or a cell phone. There was no evidence to support that Ms. Krueger had been cyber attacked or, that if she had been, it prevented her from obtaining another cell phone or creating another accessible email address.
- [156] In the circumstances, I find that since November 2022, Ms. Krueger has not taken the steps necessary to obtain work to support herself. As a result, had I made an ongoing award of spousal support, I would have imputed an income to her. The current minimum wage (2024) in British Columbia is \$17.40 an hour. The minimum wage is adjusted annually in June, based on BC's previous year's annual inflation rate. Working minimum-wage jobs, on a full-time basis, results in an income of about \$35,000 a year. Based on her skill set, Ms. Krueger is clearly capable of earning more than minimum wage. In all the circumstances I would have found that she was capable of earning an income well in excess of minimum wage and I would have imputed an income to her of \$50,000.

Property Division

Family Property

- [157] Family property and family debt are defined in ss. 84 and 86 of the FLA. After determining what assets and liabilities are family property and family debt, absent excluded property claims, the Court will usually divide the property and debt equally between the parties.

[158] I will first determine the available family property and then consider whether an unequal division is appropriate in this case.

[159] There is no evidence that the parties had any excluded property of value coming into the relationship, nor did they acquire property during it. Although Ms. Krueger suggested that Mr. Evans owned real property in the United States, there was no evidence to support this. Mr. Evans gave a perfectly reasonable explanation for his interest in buying tax lien properties in the United States and how that venture was unsuccessful.

[160] Post-separation, Mr. Evans purchased land in a Mexican resort development (the "Land"). Payments for the Land, in the monthly amount of \$729.35 USD are charged to his credit card. On his current schedule of payments, he will not own the Land until August of 2035. The parties had the following exchange at trial on April 12, 2024:

Q What person discloses a property in Mexico when--if they're actually hiding something?

A Because obviously you're not just going to buy the lot. And after divorce, I--in my belief that the money that was parking somewhere will be invested to something great--greater due to the non-transparency of your finances. So, I don't have any answer for that. I mean, yes, thank you for declaring that you are purchasing the properties in Mexico, but there might be other property in Canada that you already make a purchase under someone else's name that I'm not aware of due to the nondisclosure that I have been requested a number of times.

[161] There is no basis in the evidence that Mr. Evans has parked money somewhere or bought property in Canada under someone else's name. I find that the Land is not a family asset, and that Mr. Evans did not divert family assets to purchase it.

[162] During the parties' relationship, Mr. Evans received loans from his mother as an advance on his inheritance and, after his mother's death, he received what was left of his inheritance. It is not disputed that he used the loans and the advances and the inheritance for family purposes and, as a result, they lost the status of excluded property. As I will discuss in dealing with the various corporations owned by the parties, the loans and the advance on Mr. Evans' inheritance were primarily used to construct and open Sparkle.

[163] In addition, Mr. Evans received a settlement of a personal injury claim but those funds were received by him after separation and did not include a loss of income component. The settlement is not a family asset.

[164] The family assets in issue in this case are:

- a) the financial savings each party held at separation;
- b) Registered Retirement Savings Plan funds held by Mr. Evans;
- c) the equity in the financed vehicles registered in Mr. Evans at separation;

- d) the value of the shares in any of the companies owned by the parties during the relationship; and
- e) the value of any remaining assets held by the companies owned during the relationship.

[165] During his evidence, Mr. Evans introduced a spreadsheet in which he calculated the division of the parties' assets and debts. He also provided the back up documentation to support each item in the spreadsheet. In cross-examination, Mr. Evans was not seriously challenged on the content of the spreadsheet. I will address where it was questioned and why as I refer to each item.

[166] I have reviewed the spreadsheet and the back up documents and agree that they accurately reflect the parties' financial situation on the date of separation, subject to a few exceptions.

Financial Assets

[167] Mr. Evans testified that he and Ms. Krueger had the following financial assets on the date of separation:

Sparkle Beauty House CRA Reimbursement Cheque

\$6,493.30

Banner Bank USD Account converted to CAD

\$5,735.94

Coast Capital Canada Innovative Financial Account (in overdraft)

-\$2,388.65

Coast Capital Personal Chequing Account in Mr. Evans' name

\$7,770.42

RRSP in Mr. Evans' name - gross value based on a calculation on April 19, 2024

\$23,570.17

Total:

\$41,181.18

[168] In Ms. Krueger's first financial statement, she says that she had \$865.58 in various bank accounts, about \$9 of which was in corporate accounts (\$7.88 for Vzeth Productions, \$0.88 for Sparkle Beauty House account #1, \$0.12 for Sparkle Beauty House account #2. She also listed an RRSP valued at \$100.13).

[169] It is not clear whether those were the amounts in Ms. Krueger's accounts on the date of separation. Assuming that to be the case, and doing the best I can with the evidence I have, I conclude that the value of the parties' financial assets on separation should be rounded to \$42,000.

Vehicles

Porsche

[170] On June 11, 2019, the parties purchased a 2013 Porsche Cayenne ("Porsche") for Ms. Krueger to drive as her primary vehicle for business and personal use. The Porsche was the subject of hours of trial evidence and a number of court appearances.

[171] The Porsche was registered in Mr. Evans' name and he paid to license and insure it. He had a better credit rating. The purchase of the Porsche was financed by a loan from the General Bank of Canada for the initial principal amount of \$40,930.64.

[172] Ms. Krueger testified that the Porsche was a birthday gift to her from Mr. Evans. Mr. Evans disagreed. He said it was not bought on a date related to a special occasion like a birthday or anniversary.

[173] At trial, Ms. Krueger attempted to file a letter from the salesperson who purportedly sold Mr. Evans the Porsche. It apparently set out the salesperson's recollection that the Porsche was a gift. I did not admit the letter. It was hearsay, and the author was not there to be cross-examined.

[174] I accept that Ms. Krueger believed, or convinced herself, that the Porsche was a gift from Mr. Evans, but find that it was not. Ms. Krueger's evidence that it was a gift is contradicted by her evidence that, at one point, she offered to switch vehicles with Mr. Evans so that she would drive the Audi and he, the Porsche. The Porsche was purchased with borrowed money and after separation, Mr. Evans sought its return in June 2021, November 2021 and again in February 2022.

[175] After separation, Mr. Evans continued to pay the financing costs and the insurance for the Porsche. As late as June 11, 2021, he was paying \$142.39 a month to ICBC to insure it.

[176] The outstanding loan balance on the Porsche was \$32,373 as of January 16, 2021. As of March 2024, just before the start of trial the loan balance was \$13,249. In the period between the date of separation, to March 2024, Mr. Evans paid \$24,758 in loan payments and reduced the loan balance to \$19,124. He seeks an adjustment of \$5,634 for the payments he made on the Porsche. All figures have been rounded to the nearest dollar.

[177] Mr. Evans was concerned that Ms. Krueger was not maintaining the Porsche and was not driving it. In October 2021 Ms. Kreuger called to tell him that a "check engine" light had come on and that she could not afford to repair it. It was unreasonable for Ms. Krueger to assume that the Porsche came with an open-ended obligation on Mr. Evans' part to insure

or repair it. Ms. Krueger agreed that in her Form 8 Financial Statement filed on October 18, 2021, she recorded that she had purchased a 2005 Mercedes C203. Presumably she did so because she was concerned about the Porsche needing repairs. In any event, she had two vehicles then available to her.

- [178] Mr. Evans wrote to Ms. Krueger and her then lawyer asking her to return the Porsche to him so that he could sell it and pay down the outstanding debt. When Ms. Krueger refused to return the Porsche to him, Mr. Evans applied for an order that she do so.
- [179] On April 28, 2022, Justice Gibb-Carsley ordered that Ms. Krueger was to pay to have the Porsche serviced, as required by the applicable service standards for a Porsche, and to provide proof that she had done so within ten days. There was no evidence that she complied with the order as it related to the servicing. Ms. Krueger was also ordered to pay an amount for insurance for the Porsche for April and May 2022. Commencing on May 11, 2022, and on the 11th day of each month thereafter, Ms. Krueger was to pay Mr. Evans \$142.39 for the monthly insurance on the Porsche. She partially complied with the order with respect to the insurance. Still outstanding is the amount of \$612 in unpaid insurance. I order that Ms. Krueger must pay that amount.
- [180] In January 2024, Mr. Evans was advised by the police that, since at least December 15, 2023, the Porsche had been abandoned at the Tsawwassen Mills Mall ("Mall") and if he did not pick it up, it would be towed. Mr. Evans arranged for a tow truck to pick it up from the Mall, as he did not have keys to it. Ms. Krueger learned that the Porsche was to be towed and attended at the Mall. The parties had an altercation in the Mall parking lot during which the police became involved.
- [181] Ms. Krueger insisted that the Porsche was hers and that there was an order preventing Mr. Evans from taking it. Ms. Krueger blocked the tow truck. She moved only after the police threatened to arrest her. Mr. Evans towed the vehicle and stored it until he was permitted to sell it by my order of April 26, 2024 made during the trial.
- [182] Ms. Krueger acknowledged that she had been parking the Porsche at the Mall for months. She said she arranged for the Mall security to look after it for her. She testified that she was concerned that Mr. Evans would have the Porsche towed from the Studio where she had it parked. Mr. Evans testified and demonstrated through photographs, and I accept, that the Porsche had moss growing on it from being left sitting so long.
- [183] I permitted him to list the Porsche for sale and ordered Ms. Krueger to provide him with the keys for that purpose. Ms. Krueger only complied with my order at a court appearance at which I required her to turn over the keys. After the balance of the GBC financing was paid off, the remaining funds were paid into court.
- [184] Mr. Evans agreed that the Porsche was a family asset but asserted that the debt associated with it, which required him to make monthly payments to GBC in the amount of \$634 was a family debt. I agree the payments were a family debt.

Audi

[185] On March 18, 2019, Mr. Evans purchased a 2014 Audi Q5 for his own business and pleasure use. The purchase of the Audi was also financed by a loan from the GBC in the principal amount of \$34,776.17.

[186] Part of the cost of the financing for both the Porsche and the Audi was written off as a business expense. Both are family assets to be divided between the parties, net of the associated debt. Mr. Evans wishes to retain the Audi.

[187] For the purposes of property division, Mr. Evans estimated that the Porsche had a residual value at trial of \$25,000. Although it was eventually sold for less than that, Mr. Evans is prepared to use that value for property division purposes.

[188] Based on the valuations provided to me by Mr. Evans, and which were not the subject of serious cross examination, I find that the two vehicles had the following values as of the date of trial:

2013 Porsche Cayenne registered in Mr. Evans' name

\$25,000

2014 Audi Q5

\$22,666

[189] In sum, the financial assets and vehicles that were family property, and available to be divided equally, totals \$89,666. Those are the family assets to be divided.

Recreational Vehicle

[190] On a date that was unclear in the evidence but appears to have been in August of 2020, the parties purchased an RV, ownership of which was registered in Mr. Evans' name. The parties intended to rent the RV out through Airbnb to earn some side income. The RV purchase was financed through TD Auto Finance.

[191] The RV was stored at a property in Langley. It was stolen on June 1, 2021 by someone who was filmed by a security camera wearing a mask. The trailer hitch was supposed to have a security lock on it, but it had not been installed on the night the RV was stolen. The door to the interior of the RV was locked but access to the interior was not required to hitch and tow it.

[192] Although Ms. Krueger never actually accused Mr. Evans of arranging to have the RV stolen, by her evidence and her questions of him, she suggested that he might have been involved. For example, she testified in cross-examination on April 23, 2024, that the RV would not have been stolen if he had not unlocked the security lock. They had the following exchange:

Q Ms. Kreuger, I locked the trailer every time. Correct?

A Yeah, and surprisingly, you did not lock it the night before it's stolen.

Q Ms. Kreuger, having access to the locked trailer was not a--they did not need to get inside the trailer in order to steal it. Correct?

A I don't know. I'm not a thief. But I only know that it had never been stolen until the night that you decide to not lock our security lock.

Q Okay. Ms. Kreuger--

A It's security lock for a reason. You told me yourself and you installed that yourself. You installed that mechanism yourself.

Q Ms. Kreuger, I never installed the security lock on the wall. Correct?

A Okay, well you arrange it. You arrange to install it yourself.

Q Ms. Kreuger, it was stolen from the storage spot. Correct?

A It's stolen from the property out in open and the man that came in is a masked man, know exactly where the RV is and standing underneath the security camera, which we actually looked at the footage and the RCMP Coquitlam attended and I asked you I said, 'Oh, how it got stolen because we have a security lock on.' 'Oh,' you said, 'oh, I just forget to lock it last night.' Oh, how convenient.

[193] There was no evidence on which I could conclude that Mr. Evans was responsible for stealing the RV, or arranging to have it stolen.

[194] Doing so would not make any real sense. The RV was insured by ICBC but the insurance payout was less than the debt the parties then owed to TD Auto Finance.

[195] As of the date of separation, the balance owing on the financing was \$39,648.25. ICBC paid out \$33,700 for the loss. The parties also received a refund of \$3,631.95 for the unused portion of an extended warranty that they had purchased, leaving an amount owing to TD Auto Finance of \$2,316.30. Together with the loan payments until the loan was complete, Mr. Evans paid \$3,785.48 to TD Auto Finance after separation. This amount is a family debt and will be reflected in my calculation of the family debt at separation which Mr. Evans paid thereafter.

Corporations

[196] On the evidence, the corporations in issue are:

- a) the respondent, Canada Innovative);
- b) the respondent, Evans PREC;
- c) Sparkle;
- d) Vzeth Productions Inc.; and

e) Unique Talent and Model Agency Inc. ("Unique").

[197] I will deal with the value of each corporation in turn. I do not have any business valuations for the corporations. In personal services corporations, when goodwill is personal in nature, the value of the corporation is usually based on the assets the corporation holds. In this case, none of the corporations held any assets. Instead, the personal services corporations served as tax vehicles for the earnings, if any, brought into the corporation. After expenses were deducted, it appears that earnings were transferred out as income. As I have said, the only tax returns in evidence are Mr. Evans'.

Canada Innovative

[198] Canada Innovative was the parties' mortgage brokerage. It was originally incorporated as Centum Innovative Financial Inc. ("Centum") on August 27, 2009. Centum entered into a franchise agreement with the Centum Financial Group. Both parties signed the franchise agreement and were equal shareholders, directors, and officers of Centum. It was effectively a personal services corporation, through which the parties ran their mortgage brokerage business. Although Ms. Krueger was a shareholder and director, she was not working in the business as a mortgage broker because she was employed with RBC at the time.

[199] Ms. Krueger needed approval from her RBC manager to jointly own the mortgage brokerage. She obtained it on the condition that she avoided conflicts of interest, did not share RBC customer information with Mr. Evans, and did not steer her banking clients to him.

[200] The parties operated Centum out of the Apartment, but the company appears to have used the Studio address as its business address.

[201] The franchise agreement with Centum expired at the end of August 2014, and rather than renew it, the parties entered into a franchise agreement with Mortgage Architects. As a result, Centum was renamed Canada Innovative.

[202] Mr. Evans testified that he was the managing broker of Canada Innovative and worked as a mortgage broker until June 2021. He then incorporated New Day Financial Inc. ("New Day"), and it became a franchisee of Mortgage Architects A Better Way ("Better Way"). Better Way is a division of Mortgage Architects but operates on a different financial arrangement. He still runs New Day.

[203] Mr. Evans explained that currently, under the agreement with Better Way, New Day receives 6% of gross commissions while Mortgage Architects receives 94%. Previously with Canada Innovative, the split was 3%/97%.

[204] Generally, gross commissions are based on 1% of the value of the mortgages placed. Some financial institutions pay a little more; some less. For example, if New Day places a \$100,000 mortgage with a prime lender like a bank, the gross commission would be \$1,000,

\$940 of which would go to Better Way and the remaining \$60 to New Day. If the mortgage was placed privately, New Day would charge a fee in addition to the commission. Each franchisor has access to different lenders and can access the best mortgage rates. Mr. Evans testified that Better Way had a better volume bonus arrangement with lenders and also covered errors and omissions insurance in their monthly fee.

- [205] Ms. Krueger told Mr. Evans that he could move to Better Way, but she would remain with Canada Innovative and its arrangements with Mortgage Architects.
- [206] Canada Innovative does not own any property or have any assets. According to the income tax records in evidence, at the date of separation the company had no assets. It had access to a \$3,500 overdraft that had an available balance of \$2,388.65.
- [207] The last cheque that was deposited into Canada Innovative's bank account was in June 2021, for a commission of \$1,955. Ms. Krueger agreed that she took that money out of the account. In fact, it appears that Ms. Krueger withdrew \$1,970 and maxed out the available overdraft. Ms. Krueger said that the bank told her she could do so. I note that the amounts set out in this paragraph differ from those in the response to family claim filed by Mr. Evans. The evidence was not entirely clear and I have done the best I can from the record.
- [208] I note that Mr. Evans seeks the amount of \$435 from Ms. Krueger for half of the cost of maintaining Canada Innovative's overdrawn account as "current" by making minimum payments. I am not satisfied that this is a family debt. It seems to me that it could have been avoided if Mr. Evans had brought the overdrawn account into good standing. Had he done so, arguably that would have been a tax-deductible cost for Canada Innovative. Accordingly, in the family debt section of these reasons, I make no order with respect to this amount.
- [209] Although Ms. Krueger was registered as a mortgage broker on October 2, 2018, I accept Mr. Evans' evidence that, in the four years during which she had a mortgage brokers' licence, she never completed a mortgage transaction. It was during this period that Ms. Krueger was working at the salon discussed later in these reasons.
- [210] I accept Ms. Krueger's evidence that she assisted Mr. Evans with customer and staff relations and some marketing. She was not paid for that contribution but, to the extent that she benefited from the commissions that Canada Innovative earned, and which were used to fund the parties' living expenses, she has benefitted from her contributions.
- [211] The financial statements in evidence show that Canada Innovative operated at a loss in each of 2020, 2021, and 2022.
- [212] I find that Canada Innovative has no market value. It was a flow-through personal services corporation in which the shareholders earned income that was then paid out. The parties used the income to cover their living expenses including their rent, the financing costs of both of their vehicles and the RV, and the insurance on those vehicles.

- [213] On the date of separation, Canada Innovative had no retained earnings. The parties wrote off part of their rent at the Apartment as an office expense, part of their vehicle costs, their professional fees and insurance, and some meals and entertainment. Canada Innovative had some electronic equipment that was fully depreciated. There was no evidence on which I can conclude that Canada Innovative was a saleable entity or had any saleable goodwill.
- [214] There is no reliable evidence on which I could find that Mr. Evans "stole" Canada Innovative from Ms. Krueger. As the only active broker, after separation, he was free to move his mortgage brokers licence to another company or into another corporate vehicle.
- [215] Without a mortgage brokers' licence associated with Canada Innovative, it has no value. However, it is still an operating company and, Mr. Evans testified that if Ms. Krueger wishes to take it over, she may do so. Mr. Evans will cooperate by assigning his 50% interest to her.

Evans PREC

- [216] According to Ms. Krueger, when she separated from Mr. Evans on an earlier occasion, as a condition of returning, she required him to become a real estate agent. As and aside, this is further evidence of her dominant role in their relationship.
- [217] Evans PREC was incorporated on December 31, 2019. It is the personal services corporation through which Mr. Evans conducts his real estate business and earned his real estate commissions. Initially, the parties were joint shareholders and both directors of Evans PREC. However, only a licensed real estate agent is entitled to own a PREC, so the ownership was changed to Mr. Evans alone.
- [218] In his evidence, Mr. Evans testified that he began conducting business under Evans PREC in late 2020 and it did not have a bank account until after the parties' separation.
- [219] Evans PREC was the corporation through which Mr. Evans earned his real estate commissions. Net of expenses, that income was paid out annually to him. Evans PREC had no retained earnings as of the date of separation and did not own property. Mr. Evans operated it out of the Apartment and used the Studio and/or the salon as a business address.
- [220] Without the real estate licence associated Evans PREC, the corporation has no market value and no marketable goodwill. Since separation, Mr. Evans continues to work as a mortgage broker and as a Realtor.

Sparkle

- [221] The parties incorporated Sparkle on July 10, 2015. They are joint shareholders in it.

- [222] After Ms. Krueger graduated from hairdressing school, she did not want to rent a chair in a beauty salon. Briefly, they looked at the possibility of purchasing an existing salon, but Ms. Krueger was not interested in anything that she saw. She suggested that the parties open their own salon in the International Village Mall commonly referred to as "Tinseltown". She was keen on the area and rents in it were relatively cheap.
- [223] Ms. Krueger found a vacant, unimproved space near the elevator on the second floor of Tinseltown. Mr. Evans' mother agreed to assist the parties with opening the salon. Mr. Evans testified that, initially, they believed that the salon could be built for \$30,000, plus furniture.
- [224] The parties entered into a provisional agreement with Tinseltown but, as Mr. Evans started to get quotes on what would be required to prepare the space, the quotes were considerably higher than he expected. He told Ms. Krueger that they could not afford to do it. Ms. Krueger tried to find contractors who would build the salon for less. Mr. Evans testified that he had "a bad feeling" about it but because Ms. Krueger wanted the salon so badly, and he was desperate for her to do something she liked and could make money at, he agreed to build it.
- [225] Mr. Evans testified that his mother provided him with the money to complete the salon as an advance on his inheritance. Ms. Krueger did not dispute where the money came from, but disputed the amount.
- [226] Construction started in 2015. Mr. Evans testified that to save money, he acted as the general contractor, getting multiple quotes to find trades that he could afford. As an example, he obtained quotes from 14 different plumbers. He testified that it was time consuming and took time away from his work as a mortgage broker.
- [227] Sparkle opened in January 2016. It had eight hair stations and two make-up stations. From the photographs in evidence, the salon appeared to be high end.
- [228] Ms. Krueger hired a few of her graduating classmates to work with her but, as they were all just starting out, they did not have an established clientele. Mr. Evans testified that within a few weeks of opening, all of the classmates had left. Ms. Krueger was paying them minimum wage, and a percentage of the salon business, but business was very slow. Ms. Krueger testified that she was unhappy with the work ethic of her classmates. I need not decide why the stylists quit; the fact is they did.
- [229] Mr. Evans testified that within a week of opening, at about 9 p.m. he went to Sparkle and found it locked with the lights off and Ms. Krueger hiding inside. Ms. Krueger was concerned about the number of homeless people that were inside Tinseltown. Mr. Evans said that he knew then that the salon would be unsuccessful.

- [230] Ms. Krueger agreed in cross-examination that she feared for her safety when she was in Sparkle due to the presence of drug addicts in Tinseltown. She testified that people got stabbed in Tinseltown almost every day. She agreed that she turned off the lights in the salon and opened it only when she had appointments.
- [231] After Sparkle had been open for a few months, and was generating very little business, Mr. Evans suggested that they sell it to recoup some of the costs. Ms. Krueger refused. She said it was a new business that would take time to build up. She accused him of being negative. As they were equal shareholders in Sparkle, Mr. Evans could not force a sale.
- [232] Ms. Krueger did not dispute Mr. Evans' evidence. In cross-examination, she agreed that she did not want to sell the salon. She testified that her reason for not wanting to sell was that she was surprised he was using the salon as a business address and that "when he altered [their] business" that was a forgery. I understood that her concern was him using the salon address for Canada Innovative. Her evidence in that regard was non-sensical.
- [233] Mr. Evans also suggested that Ms. Krueger rent out chairs or hire new staff, but Ms. Krueger did not want to do either. In cross-examination, she testified that she had to be selective in hiring if she was hiring for the long term.
- [234] Mr. Evans testified that sometimes, during the day, he would go into Sparkle and do mortgage work in the salon to make it appear open even when there was no stylist there.
- [235] Within a few months of opening, Ms. Krueger wanted the salon to be open "by appointment only". The door was locked.
- [236] On January 31, 2019, Ms. Krueger responded to a communication from Tinseltown management asking that Sparkle be open more often than it was. Ms. Krueger wrote that, due to the nature of her clientele and the mall environment, there was not much foot traffic and being there all day waiting for clients to walk in was not working. She said that she worked by appointment and sometimes was there at 2:00 or 3:00 a.m.
- [237] The monthly rent for the salon was \$1,960 plus GST for the first three years. Sparkle had an option to renew for an additional two years, which the parties exercised. Mr. Evans was reluctant to do so but went along with it.
- [238] Ms. Krueger agreed in cross-examination that Mr. Evans was paying the expenses of the salon, particularly the rent. The only possible sources for the money for the expenses was Mr. Krueger's income from Canada Innovative or inheritance funds.
- [239] Sparkle was shut down at the end of the lease in November 2020. In the last three years that it operated, admittedly affected by the pandemic, according to the financial statements, Sparkle earned a gross total revenue of \$17,788.70 combined. The highest revenue it ever earned was just over \$24,000 in a year. With revenues at those levels, Sparkle was not even covering the rent for the premises. Mr. Evans was transferring money into Sparkle every month to keep it afloat.

- [240] Ms. Krueger testified that she agreed to shut down the salon but only because it was almost like "a gunpoint". I interpreted her to mean that she was under duress to do so. In the face of what was clearly a failing business, supported by Mr. Evans' inheritance funds or by the parties' other income, it is remarkable that she felt that way.
- [241] Sparkle's financial statements were completed pursuant to court orders. On October 21, 2021, at a Judicial Case Conference, Justice Jenkins ordered that the parties jointly share the expense of retaining an accountant to prepare the T2 income tax returns for Sparkle, going back to 2017. That order was never complied with.
- [242] On April 28, 2022, as part of an application Mr. Evans brought to deal with several matters, Justice Gibb-Carsley ordered that:
7. Within two weeks the parties are to exchange with each other all financial information they have regarding [Sparkle] from January 1, 2017 to April 28, 2022. That information includes, but is not limited to
 - a. Financial statements;
 - b. Gross sales;
 - c. Detailed list of inventory and assets
 - d. Liabilities and debts of [Sparkle];
 - e. Bank statements related to [Sparkle] or used by [Sparkle];
 - f. Customer list; and
 - g. Any other financial information that is relevant.
 8. By Tuesday May 3, 2022, Mr. Evans will provide a list of three accountants to prepare the income tax returns for [Sparkle] to Ms. Krueger. The list of accountants may be by email and should include contact information for the accountants.
 9. Within three days of receiving the list of accountants from Mr. Evans, Ms. Krueger shall indicate to Mr. Evans which account[ant] she has selected to complete [Sparkle's] income tax returns. If Ms. Krueger does not respond by 4 p.m. on the day she is to respond, Mr. Evans may select the accountant to prepare the income tax returns for [Sparkle].
 10. As per Justice Jenkins order of October 21, 2021, the parties will share jointly the expense of retaining an accountant to prepare the income tax returns for [Sparkle].
 11. The parties shall make best efforts to assist the selected accountant in preparing and filing the tax returns for [Sparkle] from 2017 onward.

- [243] June Silvester was eventually retained to complete the accounting services for Sparkle. Mr. Evans' paid her a \$1,500 retainer on October 15, 2022. Ms. Silvester has not been paid the balance of her fees of \$5,775. I find that Ms. Krueger is responsible for the sum of \$2,887, her share of the remaining fees. That amount is to be paid to Ms. Silvester within 60 days of this decision. If Mr. Evans chooses to pay it, it will be a debt owed to him.
- [244] The completed financial statements for Sparkle show that the shareholders invested \$235,751.32 into the business. Mr. Evans testified that most of that money came from his mother prior to her death or from the inheritance he received after her death. The total amount he received from his mother was \$257,278.40.
- [245] Ms. Krueger did not agree with the financial statements prepared by Ms. Silvester. She did not, however, point to any discrepancies in them or call any evidence to contradict them. She merely said that she did not agree and that she had requested a CRA audit of the business and of the mortgage brokerage.
- [246] I accept that Ms. Silvester's financial statements accurately reflect her review of the records of Sparkle. Based on all of the evidence, Sparkle was an expensive failed venture.
- [247] After Sparkle closed, there was no residual value to the business except from the GST refund and, potentially, from the losses.
- [248] When Sparkle closed, the parties removed the salon chairs, mirrors, sofas, and salon inventory (the "Equipment") and stored it in a container on a rural property. Mr. Evans gifted Ms. Krueger the container in July 2021.
- [249] The evidence is unclear about what happened to the container or the Equipment. For some time after separation, Ms. Krueger paid to store the container at an initial rent of \$150 a month. At some point, that was not clear in the evidence, the rent increased to \$300.
- [250] Ms. Krueger testified that on, an unidentified date, she stopped paying the rent. She believes that the owner of the property has seized the container and the Equipment it contains for non-payment of rent.
- [251] When Ms. Krueger was asked about the financial statements for Sparkle, she testified that she has requested a full CRA audit and that "after the divorce trial is done" it will be fully audited. She testified that the same applied to Canada Innovative.
- [252] On all the evidence, I find that the Equipment has no saleable value. It may have been seized by the owner of the land on which the container was stored. In any event, the Equipment is now over four years old and was not stored in a climate-controlled environment. I assign it no value. In his submissions, Mr. Evans is not making a claim on the Equipment.

[253] There is no evidence before me that there is any goodwill in the Sparkle name or clientele. I therefore assign Sparkle no value. It is, however, owed a GST refund and that it is family property. Sparkle may have some corporate losses that are of value to Mr. Evans as write offs against future profits he may earn in his two remaining corporations. Those losses are of no value to Ms. Krueger, and I assign them to Mr. Evans to the extent he is able to use them.

Vzeth Productions Inc. ("Vzeth")

[254] Vzeth was incorporated on September 17, 2009. Ms. Krueger is its sole shareholder. It is a television production company. It entered into a contract with Shaw Cable TV to produce Hello Thailand TV and Hello Thailand Music. Both programs had been airing since 2009 but, based on Ms. Krueger's trial evidence are no longer airing. It was unclear when they stopped.

[255] Initially, Ms. Krueger put in significant effort and money into organizing and getting the shows on the air. She testified that she wanted to represent the Thai community and help local audiences learn about Thai culture and music.

[256] Vzeth rented the Studio. As I have explained, the address was used as a mailing address by Canada Innovative and initially for Evans PREC.

[257] It is not clear that Vzeth was ever profitable. The programming it produced was community-based and, apparently, was unremunerative. The parties advertised their mortgage brokerage through it and used it for business contacts. It appears that no tax returns were ever filed for Vzeth, at least none are in evidence.

[258] It is not clear on the evidence whether Vzeth is currently active or carrying on business of any kind. I assign Vzeth no value.

[259] Mr. Evans makes no claim to Vzeth and I find that it is solely Ms. Krueger's property.

Unique Talent and Model Agency Inc.

[260] In April 2019, Ms. Krueger started Unique Talent and Model Agency Inc. ("Unique"). She is its sole shareholder.

[261] Ms. Krueger testified that she started Unique due to a concern that someday Mr. Evans would not work, and she needed a source of income. She was unhappy with the job her own agent was doing in finding her work and she believed that she could do a better job and earn good money doing it.

[262] There is no evidence that Unique was a successful business. No financial statements for it were ever prepared and Ms. Krueger did not file income tax returns. It is unclear whether she earned any money from agents' fees or from acting, although I note that in her October 18, 2021 F8, she recorded income of \$3,000 from a talent agency that I presume is Unique.

[263] At different times in her evidence, Ms. Krueger suggested that she started Unique due to her passion to help people, in particular, single mothers, by training their children and finding them film or television work. There was no independent evidence to support her statement. I was not provided any evidence about how many actors Ms. Krueger had under contract. She said that she used Sparkle for training and to "facilitate" her clients. It was not entirely clear what she meant. I presumed she was referring to using it for her talent agency clients' hair and makeup.

[264] Ms. Krueger agreed in cross-examination that she did not make a lot of money through Unique and said she later "put it on hold." She also referred to a strike in the film industry and testified that after she experienced a cyber-attack, it was shut down because it was an online business.

[265] I assign Unique no value.

[266] Mr. Evans makes no claim to Unique, and I find that it is solely Ms. Krueger's property.

Unequal Division

[267] Under s. 95 of the FLA, I may order an unequal division of family property if an equal division would be "significantly unfair". Section 95(2) sets out the factors I may consider in making an unequal division:

Unequal division by order

95 (1) The Supreme Court may order an unequal division of family property or family debt, or both, if it would be significantly unfair to

- (a) equally divide family property or family debt, or both, or
- (b) divide family property as required under Part 6 [Pension Division].
- (2) For the purposes of subsection (1), the Supreme Court may consider one or more of the following:
 - (a) the duration of the relationship between the spouses;
 - (b) the terms of any agreement between the spouses, other than an agreement described in section 93 (1) [setting aside agreements respecting property division];
 - (c) a spouse's contribution to the career or career potential of the other spouse;
 - (d) whether family debt was incurred in the normal course of the relationship between the spouses;
 - (e) if the amount of family debt exceeds the value of family property, the ability of each spouse to pay a share of the family debt;

- (f) whether a spouse, after the date of separation, caused a significant decrease or increase in the value of family property or family debt beyond market trends;
- (g) the fact that a spouse, other than a spouse acting in good faith,
- (i) substantially reduced the value of family property, or
- (ii) disposed of, transferred or converted property that is or would have been family property, or exchanged property that is or would have been family property into another form, causing the other spouse's interest in the property or family property to be defeated or adversely affected;
- (h) a tax liability that may be incurred by a spouse as a result of a transfer or sale of property or as a result of an order;
- (i) any other factor, other than the consideration referred to in subsection (3), that may lead to significant unfairness.

[268] I have considered all the factors set out in s. 95(2) as they apply in this case and have concluded that there is no basis for an unequal division of family property. There is little family property to divide in any event. Ms. Krueger made no significant contribution to the career or career potential of Mr. Evans. I accept that she coached him in some of the "softer" skills involved in running personal services businesses and helped him with promotion, but during the marriage, both parties supported each other during periods of unemployment and retraining.

[269] On the evidence, I find that each party supported the other in pursuing different career opportunities. Ms. Krueger supported Mr. Evans when he retrained as a mortgage broker and later as a real estate agent. Mr. Evans supported Ms. Krueger in her desire to become a hair stylist and to own and run a salon. He also supported her television production work.

[270] At different times in their relationship, one or the other of Ms. Krueger and Mr. Evans earned more money and contributed more to the household expenses while the other retrained and earned less. There is no inequity in this case that needs to be addressed.

[271] During the marriage, Ms. Krueger was a partner in the mortgage business and she had a mortgage brokers licence. However, she did not place mortgages for clients.

[272] There was no credible evidence that Ms. Krueger made greater contributions to the acquisition and maintenance of family assets at any time during the parties' relationship. In fact, as can be seen, this couple did not acquire many assets in their years together. They sunk a lot of Mr. Evans' inheritance into Sparkle only to have it fail.

[273] There is no evidence that Mr. Evans disposed of or encumbered family assets during the relationship or after the parties' separation.

[274] I find that an equal division of property is appropriate in this case.

Family Debt

Mr. Evans' Debt Calculation

[275] Section 86 of the FLA defines family debt as all debt incurred by a spouse during the relationship. Excluded from the definition under s. 86(1) are debts incurred post-separation, except those incurred for the purpose of maintaining family property.

[276] The family debts in issue in this case are set out in a spreadsheet prepared by Mr. Evans and marked as Ex. 64. They include:

- a) credit card debt;
- b) line of credit debt;
- c) vehicle debt to the General Bank for the Porsche driven by Ms. Krueger and for the Audi driven by Mr. Evans; and
- d) debt owed to the Canada Revenue Agency.

[277] As of the date of separation, Mr. Evans calculates the total family debt at \$154,009.53. All of the debts are in Mr. Evans' name. After deducting the value of the family property, the remaining debt is \$65,162.35. Mr. Evans seeks an equalization of the debt and for Ms. Krueger to pay him \$32,581.17.

[278] During his evidence, Mr. Evans went through each item on Ex. 64, setting out the assets and liabilities as of the separation date and the proposed division of the assets and liabilities. The spreadsheet refers to the associated invoices and receipts. It also identifies costs and fines that Ms. Krueger has been ordered to pay to him.

[279] I accept the validity of his spreadsheet and his calculations. It was not seriously challenged by Ms. Krueger in cross-examination or in her evidence or submissions. The spreadsheet sets out the debts as of January 16, 2021, the date of separation, as follows. I note that under the FLA, s. 87(b)(ii), family debt is to be valued as of the date of separation. Unfortunately, apart from the loan to the Porsche, no updated values were provided for these debts by either party. I have rounded the debts to the nearest dollar in the table that follows:

Description of Debt

Amount

Coast Capital Visa

\$5,224

Triangle Mastercard

\$3,448

Scotia Visa

\$543

Scotia Line of Credit

\$4,489

Manulife Visa

\$12,929

PC Financial

\$799

Capital One Gold

\$2,759

Capital One Costco

\$4,502

Vancity

\$1,282

TD RRSP Loan

\$15,973

General Bank Audi

\$27,338

General Bank Porsche

\$32,373

Student Loan

\$15,790

CRA Tax Balance for late 2019 and 2020 Taxes

\$26,511

Total

\$153,960

[280] I will round the debt up to \$154,000. In addition to the amounts claimed, Mr. Evans also seeks insurance payments totalling \$1,281.51 which he made for the Porsche from June 2021 to April 2022. This sum reflects insurance payments that Mr. Evans made after Justice Gibb-Carsley ordered Ms. Krueger to be responsible for those insurance payments.

Other Financial Adjustments Sought by Mr. Evans

- [281] In addition, Mr. Evans seeks an adjustment to the debt on the Porsche for the amount he paid down between the date of separation to March 24, 2021, in the amount of \$5,634.28. As of January 16, 2021, the loan balance was \$32,372.89. By March 2024, the loan balance had been paid down by Mr. Evans to \$13,249.19; a reduction of \$19,123.70. During the same period, Mr. Evans made payments totalling \$24,757.98. That is because interest on the debt continued to accrue as payments were made. Hence, his claim for an adjustment to reflect that the amount of outstanding debt at the time of sale does not reflect the full value of the payments that he made after separation. In my view, Mr. Evans is entitled to the adjustment he seeks. I have rounded the amount to \$5,634.
- [282] Mr. Evans seeks reimbursement for the cost of the recovery of data from his cell phone that he alleges Ms. Krueger stole from him. The cost of the data recovery was \$549. Ms. Krueger denies that she stole the phone from him. She says that she arranged for the phone, that was mistakenly in her possession, to be returned to him. As I cannot find on the evidence that the phone was stolen, or that the data recovery was necessary after its return, I am not prepared to order that Ms. Krueger pay this amount.
- [283] Mr. Evans seeks a return of \$2,255 for a commission payment that he says Ms. Krueger took from the Canada Innovative business account. There appears to be no dispute that Ms. Krueger took the money in July 2021, after the date of separation. It should be returned.
- [284] Mr. Evans seeks \$1,581 that he received for working in a film with Ms. Krueger. They agreed to appear as a couple in the film before they separated. Apparently, Ms. Krueger kept the payment, although Mr. Evans received a T4 for it. Ms. Krueger did not dispute the fact that she retained the cheque. I find that he is entitled to receive the fee, less the 15% he would have paid to Ms. Krueger for her agents' fee. The appropriate amount is \$1,344.
- [285] Mr. Evans seeks 50% of the payments he made post-separation for a credit card processing terminal used in Sparkle. The payments would not have been required if the terminal had been returned to First Data. First Data was pre-authorized to remove the fee for use of the terminal from the parties' Coast Capital bank account. In Justice Gibb-Carsley's April 28, 2022 order, Ms. Krueger was ordered to return the terminal to Mr. Evans. She did not do so. Ms. Krueger's equal share of the amount paid is \$697.
- [286] Ms. Krueger testified that she could not find the terminal during the move. Mr. Evans believed it was in storage as part of the Equipment. Nevertheless, I accept that both parties were equally liable for this family debt.
- [287] As set out, by court order, the parties were to share the cost of retaining Ms. Silvester, and for her fees in producing Sparkle's financial statements. Ms. Krueger's share of the retainer is \$750, and Mr. Evans is entitled to be reimbursed for that. I understand that Ms. Silvester has not been paid the balance of her fees, Ms. Krueger's share of which is \$2,888.

[288] Mr. Evans seeks 50% of the amount required to pay off the debt owed on the stolen RV after the credit for the warranty refund and the insurance payout. He calculated Ms. Krueger's share of that amount, which is a family debt, to be \$1,893. I agree.

[289] Mr. Evans seeks the cost of a second key for the Audi, and for reprogramming both Audi keys, in the amount of \$1,046. He alleges that Ms. Krueger never returned her key to the Audi. Ms. Krueger says that she gave the key, along with the Apartment key, to a police officer, who was involved in the dispute that arose with respect to Ms. Krueger's removal of her belongings from the Apartment. She expected it to be delivered to him. As this is not a cost that Mr. Evans has yet incurred, I am not prepared to find that it is a family debt. In any event, Mr. Evans wishes to keep the Audi and does not currently need a second key.

Ms. Krueger's Debt Calculation

[290] In her October 18, 2021 F8 financial statement, Ms. Krueger lists debts of \$78,514 (rounded to the nearest dollar). The debts listed as are follows:

Description of Debt

Amount

Personal loans from friends Robert Faust and Kveto Grinevich

\$20,000

Government Student Loan

\$14,528

RBC Visa ending in 7681

\$3,783

TD Credit Cards

\$5,056

Rogers Bank Mastercard

\$1,516

Mastercard BNC

\$1,746

Capital One Bank

\$7,554

BMO Credit Card

\$9,632

Capital One HBC Dual Card

\$2,340

CIBC Credit Cards

\$2,605

President Choice Mastercard

\$5,072

Capital One Saks

\$645

Fido

\$410

Bell Mobility

\$479

Coast Capital LOC # 565***0 - held jointly

\$3,418

Total

\$78,514

[291] It is unclear whether the debts listed by Ms. Krueger were her debts on the date of separation, incurred post-separation, or a combination of the two. Included in her debt calculation is a personal loan from friends in the amount of \$20,000. On her evidence, that is a post-separation debt, not a family debt.

[292] Ms. Krueger did not introduce into evidence her credit card or her cell phone statements. I have no evidence that the other listed amounts are family debts to be divided. Ms. Krueger had the burden of proving that these debts were family debts and, in the absence of evidence she has not met that burden.

[293] At trial, Ms. Krueger testified that she now has debt in the amount of \$182,100; \$56,000 of which is money she has borrowed from friends. If she has incurred debt in that amount post-separation, Mr. Evans is not responsible for it.

Conclusion

[294] The parties' application for a divorce is granted. The divorce shall take effect 31 days after the release of these reasons.

[295] With respect to division of family property and family debt, I reach the following conclusions:

1. The parties' total family assets on separation are \$89,666, consisting of financial assets of \$42,000, the Porsche valued at \$25,000 and the Audi valued at \$22,666.
2. Canada Innovative, Evans PREC, and Sparkle, have no value. Canada Innovative and Sparkle are no longer in business. Ms. Krueger may or may not have access to the Equipment from the salon. To the extent it has any value, she may keep it. If Ms. Krueger is interested in Canada Innovative as a shell corporation, then she must advise Mr. Evans within 14 days of release of these reasons and he shall take such steps as are necessary to convey it to her.
3. In the event that there is still a GST refund available to Sparkle it is to be split between the parties. Mr. Evans shall be permitted to take such steps as are necessary to pursue the refund if he decides it is worthwhile to do so.
4. The parties shall each pay half of the \$64,334 of outstanding family debt, being \$31,167 each.
5. In addition, Ms. Kreuger is to pay to Mr. Evans within one year of this order, the following amounts:
 - a) \$5,634 representing the adjustment on the sale of the Porsche for the amount Mr. Evans' paid down the principal loan amount between the date of separation to March 24, 2024;
 - b) \$2,255 representing the amount of a commission payment for Mr. Evans which Ms. Kreuger took from the business account of Canada Innovative;
 - c) \$1,344 representing the amount of Mr. Evans' remuneration for working as a film extra with Ms. Kreuger post-separation, less Ms. Kreuger's 15% agents' fee;
 - d) \$697 representing Ms. Kreuger's half-share of the payments Mr. Evans made to First Data for the Sparkle credit card processing terminal which was never returned to First Data;
 - e) \$750 representing Ms. Kreuger's share of the retainer fee for the parties' court ordered accountant;
 - f) \$2,888 representing Ms. Kreuger's share of the court ordered accountant's fees; and
 - g) \$1,893 representing half of the amount required to pay off the outstanding debt on the parties' stolen RV.

Costs

[296] As I have said a number of justices and associate judges have ordered costs against Ms. Kreuger or costs in the cause. As Mr. Evans has been almost entirely successful in this trial, costs of the trial will follow the event. If the parties wish to speak to costs on a scale other than one for a case of ordinary difficulty, they may write to Scheduling. I will then direct how the cost argument is to proceed.

Final Matter

[297] As set out in these reasons, I allowed Mr. Evans to sell the Porsche for the purposes of paying off the remaining debt associated with it. To prevent further issues between the parties, I ordered the balance to be paid into court. In light of my findings herein, Mr. Evans is entitled to an order for the payment out of court of the remaining proceeds of sale of the Porsche plus any accrued interest.

[298] The proceeds are to be accounted for in the division of property and debt. To ensure that the proceeds are paid out quickly and without the need for any further steps, Mr. Evans is to prepare the order, and I dispense with Ms. Krueger's signature on it.

"MacNaughton J."

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Prepared on 29 October 2026 · Esheria