

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Anthony v. Anthony*, 2024 NSSC 100

Date: 2024-04-19

Docket: *SFH* No. 1201-074922

Registry: Halifax

Between:

Beverley Anthony

Applicant

v.

Kenneth Anthony

Respondent

Judge: The Honourable Justice Theresa M Forgeron

Heard: June 9 and December 14, 2023, in Halifax, Nova Scotia

Last Submissions: January 3, 2024

Written Release: April 19, 2024

Counsel: Shelley Hounsell-Gray for the Applicant
Christopher I Robinson for the Respondent

By the Court:

Introduction

[1] Beverley and Kenneth Anthony are separated spouses who have not resolved issues surrounding property division and spousal support.

[2] Ms. Anthony filed a motion seeking extensive disclosure from Mr. Anthony personally and from businesses which she states are owned or partially owned by him. Ms. Anthony states that the requested information is relevant to the issues which I must ultimately decide, including those related to property division, the tort of conversion, and spousal support. Further, Ms. Anthony states that in the absence of disclosure, she is unable to evaluate whether the parties' marriage contract is harsh or fraudulent.

[3] Although Mr. Anthony consented to some of the disclosure requests, he objects to other requests on four grounds. First, he states that some of the companies and businesses don't exist or are not operating businesses. Second, Mr. Anthony states that he cannot disclose information from companies that he does not control. He says that in such circumstances, Ms. Anthony is required to file a separate motion against the companies. Third, he states that many of Ms. Anthony's requests lack relevancy and are better characterized as fishing expeditions. Fourth, he notes that the volume of the requests offends the principle of proportionality.

Issues

[4] The following issues will be addressed in my decision:

- What is the position of each of the parties?
- What is the legal test on a disclosure motion?
- Can Mr. Anthony be ordered to disclose corporate information if he does not control the company?
- What personal information should be disclosed?
- What corporate information should be disclosed?

Background Information

[5] The parties had a 31-year relationship. In 1989, they began to live together; in 1990, they married. They have two children - one born in 1994 and the other in 1997. During the marriage, Ms. Anthony was employed as a teacher while Mr. Anthony worked in businesses focused on property development and apartment rentals.

[6] In 1998, the Anthonys executed a marriage contract which provided for an equal division of certain assets, including their home; RRSPs; vehicles; furniture; personal bank accounts; and shares in Atlantic Water Front Estates Ltd, Roberts Island Estates, K & B Anthony Apartments Ltd, and Gooselake Development. Excluded property that would not be subject to division included Ms. Anthony's pension and Mr. Anthony's shares in K & J Anthony Properties Limited.

[7] After the contract was signed, Ms. Anthony continued to be employed as a teacher while Mr. Anthony operated his businesses. In addition to the businesses listed in the marriage contract, Mr. Anthony developed and operated other businesses.

[8] The parties separated in August 2021. The children were no longer dependent.

[9] On December 8, 2022, Ms. Anthony filed an application seeking a "division of matrimonial property pursuant to the *Matrimonial Property Act*, and the tort of conversion of matrimonial property into corporations operated by Ken Anthony": page 1 of the Notice of Application. On May 9, 2023, Ms. Anthony filed a motion seeking expansive disclosure, with some requested items going back 25 years. On May 15, 2023, Ms. Anthony filed a notice of divorce proceeding.

[10] The disclosure motion was scheduled for a half-day on June 9, 2023. The parties did not complete the hearing during the allotted time and so another date was secured. On December 14, 2023, the hearing was concluded. Oral submissions supplemented the parties' previously filed briefs.

[11] On January 3, 2024, Ms. Anthony provided a draft order which clarified her outstanding disclosure requests. The revised order significantly reduced the amount and volume of disclosure from that previously sought.

Analysis

[12] **What is the position of each of the parties?**

[13] Ms. Anthony seeks disclosure to pursue her various claims surrounding the division of matrimonial property, the tort of conversion, and spousal support. Ms. Anthony states that the requested disclosure is relevant to these issues and will help determine:

- If the marriage contract is harsh or fraudulent.
- The value of Mr. Anthony's corporate shares.
- The value of her unpaid work which she provided to the various businesses.
- The amount of money that was transferred out of the joint account into business accounts, which in turn was used for business purposes and to increase the value of Mr. Anthony's business holdings.
- The financial consequences arising from her disproportionate payment of the family's expenses, which enabled Mr. Anthony to invest, develop, and increase the equity in his various businesses.

[14] In contrast, Mr. Anthony denies the various claims put forth by Ms. Anthony. He states that the marriage contract was signed early in the marriage during a time when Ms. Anthony wanted to protect her pension and he wanted to protect some of his business interests. He also states that Ms. Anthony was paid for all services which she provided to the businesses. Further, he acknowledges that Ms. Anthony likely paid for more of the family expenses because she typically earned more money than he did. He denies using family money for his businesses.

[15] Mr. Anthony asks that I dismiss many of the disclosure requests because:

- Some of the companies are exempt under the marriage contract, such as K & J Anthony Properties.
- Some of the companies and businesses don't exist or are not operating businesses, such as K & J Anthony Properties and 3017288 Barrington Boardwalk. The latter is a business name, not a company. Similarly, Rackdri is not a company, but is the name of a hockey bag that he invented. It was a losing venture, not a company.

- Some of the companies are not owned by Mr. Anthony. For example, Mr. Anthony does not own shares in Anthony HVAC. The company is owned by the parties' son. Nor does Mr. Anthony own shares in 4438047 Nova Scotia Ltd, although Mr. Anthony did assist with the transfer of one property, resulting in his name being placed on a deed for about three days before the property was transferred to the rightful owner.
- He is not the controlling shareholder of 3021386 Nova Scotia Limited. Mr. Anthony states that he cannot disclose information from companies that he does not control. He notes that the statement of income only requires a payor to disclose corporate tax returns for companies they control. He says Ms. Anthony must make a non-party disclosure motion against the corporation itself for the requested disclosure. At that time, the corporation, through its counsel, would be able to present its position. Further, Mr. Anthony notes that the court applies a more stringent test when disclosure is sought from a non-party.
- Ms. Anthony's requests are nothing more than a fishing expedition. Mr. Anthony states that there is an evidentiary void between the requests and the record. Relevancy was not proven. Mr. Anthony states that Ms. Anthony should have proceeded by way of interrogatories and discovery, after which a properly focused disclosure motion could have been filed. Ms. Anthony's current requests are, for the most part, based on belief, not evidence.
- The volume of the requests offends the principle of proportionality. Some of the documents no longer exist, such as older documents sought for some of the defunct companies.

What is the legal test on a disclosure motion?

Relevance

[16] Rule 14.12 provides the court with the discretionary authority to compel production of relevant documents or electronic information. Relevant and relevancy are defined in Rule 14.01. In *Brown v Cape Breton (Regional Municipality)*, 2011 NSCA 32, Bryson JA noted that the former "semblance of relevancy" test has been displaced by a trial relevancy test: para 12.

[17] In *R v Grant*, 2015 SCC 9, the Supreme Court of Canada held that “[e]vidence is logically relevant where it has any tendency to prove or disprove a fact in issue”: para 18. In SN Lederman, MK Fuerst and HC Stewart, *Sopinka, Lederman & Bryant: The Law of Evidence in Canada*, 6th ed (Toronto: LexisNexis Canada, 2022), the authors note that “[a] fact will be relevant not only where it relates directly to the fact in issue, but also where it proves or renders probable the past, present or future existence (or non-existence) of any fact in issue”: para §2.57.

[18] In *Laushway v Messervey*, 2014 NSCA 7, Saunders JA observed that deciding whether something is relevant “involves an inquiry into the connection or link between people, events or things”; it does not occur in a “pristine, sealed vacuum”: para 61.

Fishing Expedition

[19] The proper evidentiary foundation is essential to a successful disclosure motion. In *Intact Insurance Company v Malloy*, 2020 NSCA 18, Farrar JA held that a motion for production must be supported by evidence lest it become a fishing expedition. After reviewing relevant case law, he held:

[43] The evidentiary burden was on Ms. Malloy to establish that further disclosure was required, as well as the extent of that disclosure. She failed to do so. To grant her request for the breadth of the documentation sought would be to sanction a fishing expedition.

[44] While there might be documentation in the possession of Intact which may be relevant to the plaintiff’s claim, on this record, Ms. Malloy has failed to establish the existence or relevance of such documentation.

[45] Finally, at some point a balance must be struck between document production and practicality. The production order, even if it could be upheld on the basis of relevance, is too broad. Every internal policy, procedure, guideline or set of guidelines, documents or other documentation in the possession of Intact could not possibly be relevant to the very narrow claim asserted by Ms. Malloy. Such a production order defeats the very purpose of the *Rules* for the “just, speedy, and inexpensive determination of every proceeding” (*Rule* 1.01).

[20] In *Bordin v Iacobucci*, 2016 ONSC 1333, the court defined a fishing expedition as “asking for a bunch of ostensibly minimally relevant material hoping to accidentally [*sic*] find something tasty”: para 21.

Burden of Proof

[21] In *Laushway*, Saunders JA confirmed the applicable burden of proof. First, the moving party must prove relevance. Once proven, the Rule 14.08 presumption is triggered which provides that “full disclosure of relevant documents, electronic information, and other things is presumed to be necessary for justice in the proceeding.” The burden then shifts to the respondent who must “rebut the presumption in order to defeat the request for a production order.” Rules 14.08(3), (6); and 14.12(3), (4) illustrate the kinds of criteria that the judge might consider in determining whether the presumption has been successfully rebutted: para 74.

Inquiry Factors

[22] In *Laushway*, Saunders JA provided a non-static, non-exhaustive list of factors to assist courts when determining production motions:

[86] If it would assist trial judges in the exercise of their discretion when considering whether or not to grant production orders in cases like this one, let me suggest that their inquiry might focus on the following questions. They would supplement the guidance already contained in the **Rules**. The list I have prepared is by no means static and is not intended to be exhaustive. No doubt the points I have included will be refined and improved over time, and adjusted to suit the circumstances of any given case:

1. Connection: What is the nature of the claim and how do the issues and circumstances relate to the information sought to be produced?
2. Proximity: How close is the connection between the sought-after information, and the matters that are in dispute? Demonstrating that there is a close connection would weigh in favour of its compelled disclosure; whereas a distant connection would weigh against its forced production;
3. Discoverability: What are the prospects that the sought-after information will be discoverable in the ordered search? A reasonable prospect or chance that it can be discovered will weigh in favour of its compelled disclosure.
4. Reliability: What are the prospects that if the sought-after information is discovered, the data will be reliable (for example, has not been adulterated by other unidentified non-party users)?
5. Proportionality: Will the anticipated time and expense required to discover the sought-after information be reasonable having regard to the importance of the sought-after information to the issues in dispute?

6. Alternative Measures: Are there other, less intrusive means available to the applicant, to obtain the sought-after information?
7. Privacy: What safeguards have been put in place to ensure that the legitimate privacy interests of anyone affected by the sought-after order will be protected?
8. Balancing: What is the result when one weighs the privacy interests of the individual; the public interest in the search for truth; fairness to the litigants who have engaged the court's process; and the court's responsibility to ensure effective management of time and resources?
9. Objectivity: Will the proposed analysis of the information be conducted by an independent and duly qualified third party expert?
10. Limits: What terms and conditions ought to be contained in the production order to achieve the object of the **Rules** which is to ensure the just, speedy and inexpensive determination of every proceeding?

General Approaches

[23] Further, when considering disclosure motions, Saunders JA provided some insights about applicable approaches:

- The court should apply a more liberal view of relevance at the disclosure stage than at trial, subject to confidentiality, privilege, production costs, timing, and probative value: *Laushway*, para 49.
- It is “better to err on the side of requiring disclosure of material that, with the benefit of hindsight, is determined to be irrelevant, rather than refusing disclosure of material that subsequently appears to have been relevant. In the latter situation, there is a risk that the fairness of the trial could be adversely affected”: *Laushway*, para 49.

[24] The need for timely and meaningful disclosure is particularly important in the family law context: *Colucci v Colucci*, 2021 SCC 24, paras 48-52; *Michel v Graydon*, 2020 SCC 24, para 33; *Leskun v Leskun*, 2006 SCC 25, para 34; *Armoyan v Armoyan*, 2013 NSCA 99, para 28; *Foster-Jacques v Jacques*, 2012 NSCA 83, para 93; and *Roberts v Roberts*, 2015 ONCA 450, paras 11-12.

Summary

[25] In summary, Ms. Anthony must prove that the requested information is relevant to the issues which the trial judge must decide by linking the information to people, events, or things. An evidentiary record must ground the disclosure requests. If Ms. Anthony proves relevance, it is presumed that the requested disclosure is necessary for justice to be achieved. At that point, the burden shifts to Mr. Anthony. He must rebut the presumption to defeat the production order by establishing that the cost, burden, and delay involved in producing the relevant documents is disproportionate to the likely probative value and to the overall importance of the issues to the parties.

Can Mr. Anthony be ordered to disclose corporate information if he does not control the company?

Positions of the Parties

[26] Mr. Anthony submits that Ms. Anthony must file a non-party production motion to obtain information and documents from companies that he does not control. Mr. Anthony states that the legal test for production is different and more stringent when non-parties are called upon to produce information. He submits that the non-party must be given the opportunity to participate. In support of his position, Mr. Anthony notes that the Statement of Income form only requires the production of tax returns for companies in which the affiant has a controlling interest.

[27] In contrast, Ms. Anthony states that Mr. Anthony has possession of the various documents which she seeks because he is a 50% shareholder of the company. She notes that Mr. Anthony is obligated to disclose for both the property and support claims that she is pursuing.

Decision

[28] I find that Mr. Anthony can be ordered to disclose information and documents from companies in which he is a non-controlling shareholder for three reasons. First, the Rules do not articulate a different or more stringent legal test for production from a non-party. For example, there is no separate Rule dealing with motions for production of documents from non-parties. Instead, Rule 14.12 states that a judge may order “a person” to produce a relevant document to a party or at the trial or hearing of a proceeding. Rule 94.08 dictates that “[a] reference in these Rules to a person includes a party and a non-party.”

[29] Second, Mr. Anthony has an obligation in the *MPA* proceeding, as title holder of the corporate shares, to provide meaningful and credible evidence as to value: *Wolfson v Wolfson*, 2023 NSCA 57, para 127. It is Mr. Anthony who is the party. The companies are not parties in the matrimonial property litigation. Therefore, the obligation to produce rests on Mr. Anthony and not the companies. Property valuation ordinarily involves the production of tax returns and other relevant corporate records.

[30] Similarly, it is Mr. Anthony, and not the companies, who is the party in the divorce litigation in which spousal support is claimed. The obligation, if any, to pay spousal support will rest upon Mr. Anthony, not the companies. In determining income, the court can include all, some, or none of the pretax corporate income in which Mr. Anthony has a controlling or noncontrolling interest.

[31] Third, case law supports Ms. Anthony's position. For example, in *Bezanson v Bezanson*, 2021 NSSC 126, Chiasson J rejected Mr. Anthony's line of reasoning in the support context:

[21] Counsel for Peter Bezanson argued that the corporate disclosure requested was irrelevant to a consideration pursuant to s. 21(1)(f) of the *Federal Child Support Guidelines*. **The position of Peter Bezanson is that he is not in control of the companies in question and, as such, the disclosure is irrelevant. This argument does not address the issues of financial disclosure which may arise pursuant to s. 18 of the Federal Child Support Guidelines.**

[22] Section 21(1)(f) makes the financial disclosure sought mandatory if the party controls a company. Section 18 provides that further disclosure may be warranted, even if the spouse is not in control of a company, if the income noted in the T1 general form "does not fairly reflect all the money available to the spouse for the payment of child support." The issue of additional monies available to Peter Bezanson is at the root of the issues of support.

....

[27] At trial, and with the benefit of all relevant evidence before it, the court may conclude that the monies are income available to Peter Bezanson. The court may also conclude that the monies relate to a past property transfer to Peter Bezanson for estate planning purposes (which may or may not be divisible as between the parties). The court may also conclude that the monies in the director's account are finite and not representative of an income stream upon which to base support. The categorization of these monies is to be left to a determination following the trial and after a fulsome consideration of all evidence. **At this pre-trial stage, however, I**

find that the corporate disclosure of income tax returns and financial statements are relevant. [Emphasis added]

[32] Such an approach was also adopted in *Di Luca v Di Luca*, [2004] OJ No 711 (Ont Sup Ct J), where the wife argued that she had no power or authority to compel production of the ordered trust information because her requests had been denied by the third party trustees. She argued that it was up to her former husband to bring a motion for third party production if he considered the information relevant and material. The court disagreed:

12 In my view, if it is necessary to obtain information in the possession of a third party in order to discharge the obligation to make full financial disclosure, then steps should be taken by the party upon whom the obligation to disclose rests to do so. For instance, if records of property or business transactions are in the possession of financial institutions, professionals or partners, it is expected that the party required to make the disclosure will take steps to obtain the information necessary to fulfill that obligation.

...

14 In the family law context, where early and complete financial disclosure is not only encouraged but demanded, I am of the opinion that a party who has been unable to obtain access to the documents and information necessary to comply with that obligation must resort to a motion under Rule 30.10 to gain access to the necessary material and cannot say that the opposing party is obligated to do so. It may well be that the husband in this case could also take advantage of a Rule 30.10 motion to obtain documents if he were to so choose but to require him to do so would be to undermine and render toothless the obligation of full financial disclosure that rests squarely on the wife. [Emphasis added]

[33] Similarly, in *Bordin v Iacobucci*, *supra*, Meyers J relied on *Di Luca* in ordering the husband to disclose information related to the ownership of certain corporations:

31 So, if documents have to be disclosed, how do they get disclosed? Mr. Grant argues that the documents sought by the applicant are in the possession, power, or control of the respondent's father and companies over which the respondent has no control. He argues that the applicant should have served all of the third parties and sought production orders against each of them.

32 The respondent's argument reverses the onus in this case. The applicant has established, from the respondent's mouth, the respondent's legal interests in DMCL, its parent company, the two corporations gifted to the children, and other corporations were recorded in the books and records of those companies. **The**

burden to disclose and value one's assets in such circumstances falls clearly on the respondent. *Blaney v Blaney*, 2012 ONSC 1777 at para. 5. In this case in particular, it is the respondent who has the burden to prove that despite the evidence of his formal title to corporate interests, he is a bare trustee or has transferred his interests in a *bona fide* and effective manner as he claims. **If third party documents are needed by the respondent to prove the quality of his ownership of assets, liabilities, and their values at the respective time periods under the statutory regime, then the obligation to obtain those documents from those third parties fall to the respondent and not the applicant.** *Du Luca v. Di Luca*, 2004 CarswellOnt 767, at para. 12. [Emphasis added]

[34] In my view, this is the proper approach. Each party has an obligation to make complete and meaningful financial disclosure. If Ms. Anthony proves that the requested information is relevant, then it is Mr. Anthony, as title holder, who has the obligation to obtain and disclose the information. Ms. Anthony is not required to file another disclosure motion.

What personal information should be disclosed?

[35] In her January 2024 draft order, Ms. Anthony sought the following personal information from Mr. Anthony:

- Personal income tax returns T1 - including all slips and schedules, notices of assessment, and reassessment, for the period between 2000 and including 2023.
- Credit report to present day.
- All bank, investments, and any other accounts owned by Kenneth Anthony, past or current, with RBC, Scotiabank, TD, and PC Financial for the past 5 years.

[36] I grant the disclosure request for the tax returns. Income tax information is relevant to the property and spousal support issues which will be decided at trial.

[37] I also grant the request for personal banking records held in Mr. Anthony's name, for two reasons. First, Ms. Anthony relies on the *MPA* and the tort of conversion to ground her property claim. There is evidence from Ms. Anthony, albeit disputed by Mr. Anthony, that family money and property were used to fund businesses operated by Mr. Anthony. The banking records for the period prior to

separation are, from a trial relevancy perspective, likely to assist in proving or disproving this disputed fact in issue.

[38] Second, there is a dispute about Mr. Anthony's available income and lifestyle. Ms. Anthony states that Mr. Anthony's lifestyle is indicative of wealth and a healthy income earning capacity. Mr. Anthony denies these claims. Banking records are likely to assist in proving or disproving the disputed facts in issue.

[39] I do not grant the request for Mr. Anthony's credit report because there is no evidence confirming relevance.

What corporate information should be disclosed?

[40] Ms. Anthony seeks extensive corporate disclosure from 3021386 Nova Scotia Limited; 3112771 Nova Scotia Limited; 4438047 Nova Scotia Limited; K & J Anthony Properties Limited; and K.B. Anthony Apartments Limited, inclusive of businesses operated under the business name known as 3017288 Barrington Boardwalk; Anthony HVAC; and Rackdri as follows:

- True copies of the financial statements for fiscal year end for the past 10 years including any of the company's subsidiaries.
- A statement showing a breakdown of all salaries, wages, management fees and other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation (including personal use of company vehicles or assets, personal component of travel expenses, personal legal fees paid by the company (for any matter), personal meals, etc. paid by the company), and every related corporation does not deal at arm's length.
- All T2 corporate tax returns, and notices of assessment, and reassessment for the past 10 years.
- Detailed listing, by fiscal year, of all salaries, bonuses, taxable benefits.
- Summary (including payee) of amounts due to or from shareholder/directors/ officers as at each fiscal year end for the past 10 years.
- General ledger transaction details for the past 10 years with respect to Kenneth Anthony's shareholder loan account.

- Provide details about source of funds for Kenneth Anthony's personal contribution to each company.
- Disclosure of all bank, investments, and any other accounts owned by each Company and subsidiaries for the past 3 years.

Companies/Businesses For Which No Disclosure is Ordered

[41] I do not order disclosure for 4438047 Nova Scotia Limited; 3112771 Nova Scotia Limited; K & J Anthony Properties Limited; the business name known as 3017288 Barrington Boardwalk; Anthony HVAC; and Rackdri. Relevance was not proven because:

- The record does not prove that Mr. Anthony owns shares in 4438047 Nova Scotia Limited.
- The record does not prove that Mr. Anthony owns shares in 3112771 Nova Scotia Limited.
- Pursuant to the marriage contract, K & J Anthony Properties Limited is an exempt asset whose registration was revoked in 2014. The record does not prove that K & J Anthony Properties Limited is an operating company that files tax returns or maintains records.
- The record does not prove that Mr. Anthony owns shares in Anthony HVAC, a business operated by the parties' son.
- 3017288 Barrington Boardwalk is a business name that was registered to K & J Anthony Properties Limited. The income produced from 3017288 Barrington Boardwalk would have been reported by K & J Anthony Properties Limited.
- The business Rackdri does not currently exist and any income which may have been generated is historical and would have been reported by Mr. Anthony personally.
- The cost, burden, and delay involved in producing the documents is disproportionate to the likely probative value and to the overall importance of the issues to the parties.

3021386 Nova Scotia Limited

[42] I order Mr. Anthony to produce the following corporate records of 3021386 Nova Scotia Limited for each of the past 10 years, beginning in 2014:

- Financial statements.
- Tax returns with all attachments, notices of assessments, and any notices of reassessment.
- GL transactions for Mr. Anthony's shareholder loan account and summary of amounts due to Mr. Anthony or to corporations related to Mr. Anthony from shareholder loan account(s).
- Confirmation of all taxable and nontaxable payments or nontaxable benefits paid to Mr. Anthony, or on behalf of Mr. Anthony, or persons or corporations related to Mr. Anthony, including amounts for personal use of company vehicles or assets, travel expenses, personal legal fees paid by the company (for any matter), or personal meal expenses.

[43] In addition, bank records and investment statements must be produced from 2019 to 2024.

[44] The above disclosure is relevant, from a trial relevancy perspective, as it may assist to prove or disprove contested facts related to the property and spousal support issues, as the information relates to the valuation of the company, property division, the tort of conversion, and Mr. Anthony's income and expenses for support purposes.

[45] Mr. Anthony has not yet provided meaningful evidence as to the value of his shares, as is required in his Statement of Property. The ordered disclosure will assist in the valuation of Mr. Anthony's shares. I note that in other litigation involving the company – *3021386 NS Limited v Harding*, 2022 NSSC 174 – Brothers J quoted Mr. Anthony as saying in a letter, in part, “This project would be a partner deal with myself (Ken Anthony) and Steve Lockyer (Halifax). We together run 3021386 NS Ltd. which is a multi million dollar company dealing in apartments and commercial realastate [*sic*]”: para 36.

[46] In addition, the ordered disclosure will assist in proving or disproving disputed facts in issue surrounding the division of property and the tort of

conversion. There is evidence that family money and property was transferred into 3021386 Nova Scotia Limited. For example, in addition to Ms. Anthony's disputed oral evidence, exhibit 6 shows a property transfer from K.B. Anthony Apartments Limited to 3021386 Nova Scotia Limited. Under the marriage contract, K.B. Anthony Apartments Limited is one of the companies that the parties agreed would be equally divided upon separation or divorce.

[47] The ordered disclosure will also assist in quantifying the income and income earning capacity of Mr. Anthony so that the spousal support issue can be adjudicated. The ordered disclosure will assist in identifying corporate expenses with a personal component which may impact Mr. Anthony's income and expenses for support purposes.

[48] Further, the cost, burden, and delay involved in producing the relevant documents is not disproportionate to its likely probative value.

[49] In contrast, I did not order the balance of the requests for connection and proportionality reasons. Details of payments made by the company to unrelated individuals or to the other shareholder, Steve Lockyer, are not connected to the issues in dispute.

K.B. Anthony Apartments Limited

[50] Mr. Anthony did not dispute the relevance of the requested documents, given that he is the sole and controlling shareholder and that this asset is listed as equally divisible in the marriage contract. Subject to the sale of real property in 2022, however, the record indicates that this company is non-operational, with its registration having been revoked.

[51] To the extent that the documents exist, Mr. Anthony must disclose the following corporate information of K.B. Anthony Apartments Limited for each of the past 10 years, beginning in 2014:

- Financial statements.
- Tax returns with all attachments, notices of assessments, and any notices of reassessment.

- GL transactions for Mr. Anthony's shareholder loan account and summary of amounts due to Mr. Anthony or to corporations related to Mr. Anthony from shareholder loan account(s).
- Confirmation of all taxable and nontaxable payments or nontaxable benefits paid to Mr. Anthony, or on behalf of Mr. Anthony, or persons or corporations related to Mr. Anthony, including amounts for personal use of company vehicles or assets, travel expenses, personal legal fees paid by the company (for any matter), or personal meal expenses.

[52] In addition, bank records and investment statements, if they exist, must be produced from 2019 to 2024.

Conclusion

[53] A production order is granted requiring Mr. Anthony to disclose income tax, financial, and banking records personally, and for 3021386 Nova Scotia Limited and K.B. Anthony Apartments Limited, as provided in this decision. Production is to be completed within 60 days. Should the parties not reach agreement on costs, I will entertain written submissions, although I note that success was mixed.

[54] Ms. Anthony's counsel is to prepare and circulate the production order.

Forgeron, J.