

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Patriquen v. Stephen, 2010 NSSC 248

Date: 20100528

Docket: SFHD-047112, 1201-060795

Registry: Halifax

Between:

Michael Patriquen

Petitioner

v.

Melanie Stephen

Respondent

Judge: The Honourable Justice R. James Williams

Heard: May 17, 18 and 19, 2010, in Halifax, Nova Scotia

Written Decision: June 18, 2010
NOTE: Some mathematical adjustments have been made
in this decision to account for errors in the oral decision.

Counsel: Michael King, for the Petitioner
Respondent is self-represented

By the Court:

[1] This is a divorce proceeding concerning Michael Ronald Patriquen and Melanie Jane Stephen. They married August 11, 1982. They separated June 6, 2006. I am satisfied that the grounds for and jurisdiction for a divorce are established. A Divorce Judgment will issue with the Corollary Relief Judgment that arises from this decision.

[2] Mr. Patriquen and Ms. Stephen had two children during their marriage: Michael Douglas Patriquen, born February 12, 1983, aged 27, and Melana Raye Patriquen, born October 9, 1992, aged 17 ½.

[3] There are two primary issues on this divorce - a claim for child support for Melana by Mr. Patriquen, and division of the property of the parties pursuant to the *Matrimonial Property Act*.

[4] In my review of the evidence, I have concluded that at times neither of the parties have been forthright with the Court, at times each has manipulated or attempted to manipulate their version of events to suit their own needs and, at times, each has been less than truthful or forthright with the Court. Mr. Patriquen was less than forthright concerning Melana Raye's recent non-attendance at school over a period of months since February 1st (in his May 4, 2010 Affidavit). That was corrected at trial. Mr. Patriquen has also essentially taken positions that ultimately seek to avoid creditors. Ms. Stephen has lied in an affidavit of status when selling a lot of land. There is no purpose in detailing other examples of such issues with these parties. Credibility favours neither party in this proceeding. They are two individuals who are caught in a maelstrom of problems that are essentially the result of events, circumstances and activities that each has to a greater or lesser degree been part of over the past number of years. These include joint criminal charges.

BACKGROUND

[5] Mr. Patriquen appears to have been actively involved in the drug trade for most of the parties' marriage. He has had more than one conviction. He was charged with cultivation and conspiracy to distribute marijuana in February of 2000. He had charges and convictions before that and has been incarcerated on more than one occasion. The evidence in this proceeding did not detail his criminal

record in any organized fashion, but is clear in supporting a conclusion that he was actively involved in such a criminal undertaking during most, if not all, of the parties' marriage and also supports a conclusion that Ms. Stephen was aware of and benefited from Mr. Patriquen's criminal activity.

[6] This lifestyle resulted in criminal charges against both, joint charges. They were charged jointly as follows:

- a. that at or near Halifax, in the County of Halifax, Province of Nova Scotia, between the 1st day of January, 1995 and 28th day of February, 2000, they did unlawfully have in their possession property or proceeds of property of a value exceeding \$1,000.00, to wit, real property located at 81 Orchard Drive, 87 Orchard Drive, 93 Orchard Drive and 97 Orchard Drive, Middle Sackville, County of Halifax, Province of Nova Scotia, and money and chattels, knowing that all or part of the property or proceeds were obtained or derived directly or indirectly as a result of the commission in Canada of an offence contrary to s. 41 of the *Narcotic Control Act*, and after May 14th, 1997, contrary to Part 1 of the *Controlled Drugs and Substances Act*, to wit, trafficking in a narcotic, controlled substance, to wit, cannabis, marijuana and cannabis resin, thereby committing an offence under s. 19.1(2) of the *Narcotic Control Act* and s. 8(2) of the *Controlled Drugs and Substances Act*; and
- b. furthermore, that at or near Halifax, in the County of Halifax and Province of Nova Scotia between the 30th day of March, 2000, and the 14th day of April, 2000, they did transfer the possession or, dispose of or otherwise deal with property, to wit, real property located at 87 Orchard Drive, 93 Orchard Drive and 97 Orchard Drive, Middle Sackville, County of Halifax, Province of Nova Scotia, with intent to conceal or convert that property, knowing or believing that all or part of that property was obtained or derived directly or indirectly as a result of the commission in Canada of an offence contrary to s. 4(1) of the *Narcotic Control Act*, and after May 14th, 1997, contrary to Part 1 of the *Controlled Drugs and Substances Act*, to wit, trafficking in a narcotic, controlled substance, to wit, cannabis, marijuana and cannabis resin, thereby committing an offence under s. 9(2) of the *Controlled Drugs and Substances Act*.

[7] I should note that on the first count the phrase “and chattels” was added at Ms. Stephen’s trial and not included in the charge that Mr. Patriquen faced.

[8] Mr. Patriquen plead guilty to the first count on September 3, 2003, the second count was withdrawn or dismissed. He was sentenced on June 14th, 2005. He received three years concurrent with another offence, presumably the offences that originated in February of 2000, although I do not have the specific details of that. Also pursuant to s. 462.37 of the *Criminal Code*, he was ordered to pay a fine of \$272,807.00, \$13,380.00 had already been paid or forfeited by Mr. Patriquen, leaving approximately \$259,427.00 to pay. He was given two years to pay it. The evidence indicates that it has not been paid.

[9] My understanding of fines pursuant to this section (462.37) is that the *Criminal Code* section in question allows the Court to order in lieu of ordering property or part of property or interest in property to be forfeited, the offender may be ordered to pay a fine in an amount equal to that property part or interest.

[10] Ms. Stephen went through a lengthy trial on both charges, having plead not guilty. She was convicted on both charges December 7th, 2007. She was sentenced April 25, 2008 as follows:

- a. on the first count to one day in jail and a \$5,000.00 fine payable by April 25, 2011;
- b. on the second count to 18 months incarceration, to be served in the community, to be followed by three years probation.

[11] The post-separation orders of this Court are also relevant background to this proceeding.

[12] On July 26, 2006 the parties appeared before Associate Chief Justice Robert Ferguson of this Court. An Interim Order was granted at that time which provided in part that both parties be prohibited from disposing or otherwise encumbering matrimonial property. This does not appear to have been followed by Ms. Stephen. The parties were to share interim joint custody of the child, Melana Rae; the primary residence of the child was to be with Mr. Patriquen, with arrangements made for Ms. Stephen to have ongoing access. The child was not to be removed from the jurisdiction without the consent of the other party. Interim exclusive

possession of the home was to be with Mr. Patriquen effective August 20, 2006. Neither party was to dispose of household contents or matrimonial property. Mr. Patriquen was to pay interim spousal support to Ms. Stephen in the amount of \$650.00 per month. The \$650.00 per month, as I understand the evidence presented to me, was a contribution to occupation rent.

[13] On December 5, 2006 the matter came before Justice Mona Lynch of this Court. The Order of Justice Lynch provides, amongst other things, that the occupation rent of \$650.00 per month, payable by Michael Patriquen to Ms. Stephen, was to be terminated effective December 1, 2006, that Mr. Patriquen was to pay to Ms. Stephen the difference between the mortgage payment and the occupation rent for the period September 22nd to December 1st immediately. Mr. Patriquen was to pay mortgage insurance fees from September 22nd to December 1st. Mr. Patriquen was to assume sole responsibility for the bi-weekly mortgage payments of \$397.10 and the monthly mortgage fee of \$40.00 a month on the matrimonial home and was also to pay home insurance.

[14] After this decision, multiple false starts with trials, and a series of contempt applications or continuations followed. The contempt applications focussed on Mr. Patriquen's failure (from Ms. Stephen's point of view) to pay the mortgage payments, house taxes and insurance as ordered by Justice Lynch. From his point of view, there was an inability to make those payments. The acrimony between the parties, complicated and often incomplete records and delays, I conclude, were stressful on the parties, their family, counsel, a series of judges through 2007, 2008, 2009 and, commencing in January 2010, this Judge.

[15] The matter was set for trial May 17, 18 and 19, 2010. It proceeded to trial. On April 12, 2010 a pre-trial memo was issued by myself. It directed, among other things, that the trial issues were to be the distribution of assets under the *Matrimonial Property Act* and child support. I directed that Mr. Patriquen, as the Petitioner, shall file and provide to the opposing party the following documentation:

- a. an affidavit that sets out the child support claim that he is making, indicating for which of the parties' children the claim is made, for what specific time frame and for any of the time frames referred to where the child physically lived during that time frame and what school or schools they were registered in and their attendance record.

[16] Like so much of the documentation in this case, the material filed by Mr. Patriquen on the one hand seemed to address these issues, on the other hand did so in a very complicated manner and was, at the end of the day, incomplete and, to a degree, inaccurate.

[17] While this case crawled forward following the parties' separation in 2006, a tragic event occurred. On November 11, 2008 Michael Patrick Patriquen, the parties' son, was shot in the matrimonial home where he was living with his father. As a result of the shooting, Michael Patrick is paralyzed from the chest down. It was and is, simply put, a tragic event that has profoundly impacted upon the whole family. There is no application related to Michael Patrick before this Court, though Mr. Patriquen makes it clear in a variety of ways, and he has been consistent in this, that he would like to stay in the home with and for his son. Ms. Stephen has a similar sentiment from a different perspective, saying, at times, that she would like to be in the home and to be providing care for her son.

CHILD SUPPORT

[18] Melana Raye Patriquen is 17 ½ years old. The *Divorce Act*, s. 2(1) defines a child of the marriage as being “under the age of majority”, which she is, and “under the charge of a parent”. MacLeod and Mamo's 2009 Annual Review of Family Law states at p. 184:

Under the *Divorce Act* the definition of a child of the marriage puts the onus on the person claiming child support to prove that the child is under parental charge.

[19] I am not satisfied that Mr. Patriquen has done so. Mr. Patriquen seeks child support for her from June of 2009 to the present. That time frame was adjusted (from a longer retroactive claim) on the witness stand, not in the documentation that he filed. Mr. Patriquen's Affidavit of May 4, 2010 states at clause 5 that Melana Raye “continues to reside with me and continues to be a student at Millwood High School, notwithstanding her spotty attendance since November”. The evidence indicates that she had not attended school at all since February 5, 2010. The Affidavit filed on May 4, 2010, taken in its best light, failed to be complete. The evidence indicates that her attendance problems, missed exams, unauthorized withdrawals from classes and other issues go back to the 2008-2009 school year. There was vague reference in his evidence to Melana Raye working

during December, but no indication as to how long and what she earned and no substantive disclosure of that (as had been directed in the pre-trial memorandum). There is evidence of his having made efforts with the school to make special arrangements for her, but no evidence of her taking those up. There was no evidence of Melana Raye being in on-going counselling or treatment for adjustment issues which Mr. Patriquen felt she had to her brother's injury and the divorce (at least no evidence of any on-going and meaningful counselling or treatment). I conclude that Melana Raye is simply doing what she wants. I conclude that she is not a child of the marriage. I conclude that Mr. Patriquen has not demonstrated that she is under his charge. She appears to be acting as an independent entity.

[20] In the event Melana Raye's circumstances are such that she is demonstrably under Mr. Patriquen's charge, engaged in a program or school on a regular basis or in some on-going and meaningful and rigorous treatment program, this issue may be revisited. I will set a date in October of this year. It will be scheduled for a half hour. It will be scheduled on any Justice's docket and I direct that should Mr. Patriquen wish that this issue be reviewed, he will file an application to vary, an affidavit in support of that, returnable by September 30, 2010. **The review date is set for one hour on October 19, 2010, commencing at 11:30 a.m.**

[21] I understand that Melana Raye is now under the age of majority. I am not satisfied that she is under the charge of Mr. Patriquen based on the evidence before me.

PROPERTY DIVISION

[22] The property to be divided is to be divided pursuant to the *Matrimonial Property Act*. An equal division of matrimonial assets is presumed under this legislation, particularly when there is a long marriage, such as here. The marriage here is in excess of 20 years.

[23] The assets, or alleged assets include the following:

[24] 1. The Matrimonial Home: The matrimonial home is comprised of three lots. They and the mortgage are registered in Ms. Stephen's name alone as a result of the events that gave rise to the joint criminal charges that I have previously referred. The only appraisal the Court has is from December of 2006 and is for

\$225,000.00. Mr. Patriquen, when asked on the witness stand if he could put a value on the home, indicated that he did not feel he could and simply asked that the Court adopt this appraisal that at this point is three and a half years old. The 2010 tax assessment has market assessment on these three lots of \$236,300.00, \$10,400.00 and \$10,400.00, comprising a total of \$257,000.00. Ms. Stephen says that if she had a chance to fix up the home it might be worth \$325,000.00. In the circumstances, it is totally impractical to contemplate a circumstance where she would have that kind of opportunity. The outstanding mortgage is approximately \$118,000.00. Mr. Patriquen has been unable to pay the mortgage and taxes and fulfill the obligations that were imposed on him when he secured the orders of exclusive possession in this proceeding. His income over the last four years, as stated by him, has been \$13,793.00 for 2009, \$16,293.00 for 2008, \$18,043.00 for 2007 and \$19,139.00 for 2006. The mortgage is approximately \$859.00 a month, over \$10,000.00 over the course of a year. It is difficult to disagree with his counsel's assertion during the trial that it has been impossible for him to pay the mortgage, taxes and insurance as directed by the Order of Justice Lynch in December of 2006. There simply hasn't been the money there, or at least money there from his disclosed income.

[25] Mr. Patriquen has asked the Court for time for him to arrange to buy the property, a property that is in Ms. Stephen's name and a mortgage that is in her name. His inability to pay the mortgage and taxes, whether one faults him for that or not, has meant distress for Ms. Stephen, it has meant calls and contacts from creditors, the bank, the Halifax Regional Municipality and ongoing worry and upset (for and by her) over her credit rating. It has led to multiple contempt applications and hearings over the last two and a half years, at many of which he asked for exactly the same thing - time to arrange to buy the property. I have no evidence as to how arrangements for him to buy the property may occur, how Ms. Stephen would be released from the mortgage, or what there is that might happen now, in the immediate future, that could not have happened in the last two and a half years.

[26] Ms. Stephen's income and debt position does not, in my view, make the purchase of the home by her any more likely or achievable or practical.

[27] The parties' financial circumstances, acrimony and history of the litigation between them concerning the payment or non-payment of mortgage, taxes and

month to month expenses for the home point to only one possible solution - the sale of the home.

[28] I will direct that Ms. Stephen and Mr. Patriquen list the home, all three lots, for sale for a total of \$257,000.00 immediately. I conclude that that listing price is appropriate given the limited evidence I have concerning the value of the home. The listing will be with a listing agent chosen by Ms. Stephen from three names of accredited real estate agents provided by Mr. Patriquen's counsel to her by 5:00 p.m. today. In the event she does not receive three names from Mr. Patriquen's counsel, she will be at liberty to chose the listing agent.

[29] The lawyer for the vendor on the real estate transaction will be chosen by the real estate agent, but shall not be a counsel or firm that has been previously engaged by either party. Mr. Patriquen will continue to have exclusive possession of the home and continue to be responsible for the mortgage, taxes and home insurance until the home is sold. Mr. Patriquen will, at all times, cooperate with the sale, showing, listing of the home as a condition of his continued exclusive possession. I expressly reserve the right of the Court and jurisdiction of the Court to review the exclusive possession order in the event that there are allegations or assertions that that cooperation is not forthcoming. The listing will be until July 31, 2010. I expressly reserve to this Court, the Family Division, jurisdiction to review not only his continuing exclusive possession but also the terms and manner of sale of the home and jurisdiction of the Court to direct that the sale of the home proceed other than how I have ordered (including sale of the home by the Sheriff, auction or other expedited format). In the event the home is not sold by July 31, 2010, the Court will issue an order that it be sold in an expedited way. **The matter is scheduled for review before myself on August 3, 2010, commencing at 10:00 a.m.**

[30] Ms. Stephen will have the exclusive right to accept or reject any offer received, but will ensure that Mr. Patriquen's counsel receives a copy of any offer, whether accepted or not, within 18 hours of receipt of the offer and a copy of the notice of her acceptance or rejection of the offer, similarly within 18 hours of its being executed. In the event that an offer or acceptance is made on the weekend, the communication to Mr. King's office will be by 10:00 a.m. on the first working day thereafter. By sale of the home by July 31, 2010, I do not mean entering an agreement of purchase and sale and closing. If an agreement of purchase and sale is entered into and the closing date is after July 31, 2010, it may well be that the

August date would result in the Court adjourning or reserving the jurisdiction it has until it can be determined whether the sale goes forward.

[31] As there is uncertainty as to the amount of equity that is in the home, I will give directions concerning the sharing of that equity later in this decision. The sale of the home will, by itself, fix an amount of that equity.

[32] 2. The Chattels: The evidence put before me is almost entirely subjective concerning the chattels - the personal property, the furniture, jewellery and whatnot of the parties. I conclude, however, from the whole of the available evidence that Ms. Stephen has received \$5,000.00 in benefit from the *de facto* division that has occurred and Mr. Patriquen will receive a credit of \$5,000.00 on that issue.

[33] 3. The Paintings: Mr. Patriquen asserted that there were Jamaican paintings of a value of \$30,000.00 sold by Ms. Stephen. There is no evidence that they were insured by the Patriquens during their marriage. There is scant admissible evidence of their value. I conclude that he has not proven their value. Their value and, to some degree, very existence, is denied by Ms. Stephen. This is essentially a “he said, she said” claim that, put bluntly, is irresolvable by the Court. I conclude that Mr. Patriquen has not proven that there should be an adjustment under the *Matrimonial Property Act* for these paintings.

[34] 4. The Investment Account: Ms. Stephen cashed in an investment account worth \$11,271.00. It was a matrimonial asset. Mr. Patriquen is entitled to an adjustment that gives him his share of that.

[35] 5. Lot A 13: Lot A 13 on Orchard Drive in Upper Sackville was sold by Ms. Stephen on August 25, 2006 after Associate Chief Justice Ferguson’s Order of July. She signed, at that time, an Affidavit of Status saying she was not a spouse. Put simply, she lied. I have scant history of the property which was registered in her name. I have no evidence to suggest it was not a matrimonial asset. In my view the evidentiary onus is on the person asserting that something is not a matrimonial asset to demonstrate that assertion. I conclude that it is or was a matrimonial asset. It was, based on the evidence I have before me, sold under market. It was listed for \$35,000.00 and sold for \$16,000.00. I conclude that it should be valued at \$25,000.00. Mr. Patriquen is entitled to a share of that.

[36] 6. The Debts:

[37] (a) Section 462.37 of the *Criminal Code* fine of \$272,807.00 was asserted by Mr. Patriquen to be a matrimonial debt. I conclude that it is not a matrimonial debt. The section allows for a fine in lieu of forfeiture of his interest in assets, not Ms. Stephen's. I am not satisfied that it has been demonstrated that this is a matrimonial debt. I find it is not.

[38] (b) The Revenue Canada Debt: as a result of the investigation that culminated in the joint charges against Mr. Patriquen and Ms. Stephen that I have referred to earlier, Mr. Patriquen was reassessed by Revenue Canada for the years 1998 to 2003. This reassessment took place on or around July 18, 2007. The result was a Revenue Canada debt of \$189,245.58, now \$174,131.83, there having been a payment made some years ago. Mr. Patriquen asserts that it is a matrimonial debt. The Revenue Canada debt is for a period when this couple were together. It is clear that Ms. Stephen would have benefited from at least a portion of this income. In most circumstances Revenue Canada debt is found to be a matrimonial debt and considered so under Section 13 of the *Matrimonial Property Act*. Here there is little indication that Mr. Patriquen has any rigorous plan or inclination to pay the debt.

[39] While the events I am about to refer to have occurred before his reassessment, I believe they illustrate an attitude that Mr. Patriquen has to the payment of the fine that arose from his conviction and, in all probability, the Revenue Canada debt. Mr. Patriquen received a personal injury claim of over \$40,000.00 in January of 2006 and directed that the disbursement of the monies go to his son. Mr. Patriquen said it was so his son could start a business and hire him (Mr. Patriquen). I would conclude that this was done as much to avoid a claim against these monies arising from the fine made pursuant to the *Criminal Code*, as it was any business opportunity that existed at the time.

[40] Mr. Patriquen's argument that the Revenue Canada debt is a matrimonial debt is one made perhaps to some degree out of obligation to Revenue Canada and desire to have that debt attributed between himself and Ms. Stephen in a fair fashion. It is also in an attempt to shift the asset/debt sharing in the matrimonial property division to enhance his take of the matrimonial assets to the point where he can retain the matrimonial home. He has paid \$15,000.00 on this debt. There is, as I have indicated, little evidence that indicates that the debt is, apart from the

proceeds of the matrimonial home, enforceable against Mr. Patriquen and little evidence to indicate to the Court that Mr. Patriquen has any commitment to pay these monies.

[41] Section 13 of the *Matrimonial Property Act* allows the Court to consider, when making a division of matrimonial assets, that it is not appropriate to make an equal division considering a number of factors. Those factors include “the debts and liabilities of the parties”. The vehicle for this Court to consider the Revenue Canada debt in making the division of matrimonial assets is through Section 13. That is not the only factor in Section 13, however. Other factors include the date and manner of acquisition of the assets, the amount of debts and liabilities and the circumstances in which they occurred, the length of time the spouses cohabited, the contribution made by each spouse to the marriage and the welfare of the family, taxation consequences and a series of other factors.

[42] I have considered all of these factors. Mr. Patriquen, it is clear, was the chief operating officer of the criminal undertaking that culminated in the joint charges against the parties and the Revenue Canada reassessment. Ms. Stephen benefited from this and should have some responsibility with respect to the Revenue Canada debt. Ms. Stephen worked and contributed to the family independent of the undertaking Mr. Patriquen was involved in.

[43] I conclude that Ms. Stephen’s obligation to contribute to the payment of this debt would be satisfied as follows. In my view the order that I am about to make is a fair way of dealing with this rather unique circumstance and issue. In my view it would be unconscionable and unfair to saddle her notionally with responsibility for this debt in a circumstance where it is unenforceable against her and may well be, in a practical sense, of limited enforceability against Mr. Patriquin. The order will direct that on the sale of the home that for each one dollar of Mr. Patriquen’s share of the proceeds of the home that is paid to Revenue Canada in satisfaction of this debt, Ms. Stephen will pay fifty cents. If Mr. Patriquen pays nothing upon the sale of the home, Ms. Stephen’s obligation is to pay nothing. The trigger on this will be a disbursement directly to Revenue Canada of the proceeds of the home, whether voluntary on Mr. Patriquen’s part, or forced by the actions of Revenue Canada.

[44] (c) Property Tax Arrears: The parties agree that to May 2010 property taxes owed are as follows: Ms. Stephen owes \$1,912.00, Mr. Patriquen \$9,316.64. Mr. Patriquen will be responsible for payment of the on-going property taxes from

June 1st forward, so long as he occupies the home. There will be an adjustment at the closing of the home of the parties' interests consistent with the tax arrears, subject to further comments in this decision.

[45] (d) Mortgage: Mr. Patriquen owes Ms. Stephen for mortgage payments:

[46] i. That she made that he should have made in 2006 of \$576.80;

[47] ii. That she made in 2007 from January 12 to May 18 of \$721.00;

[48] iii. That she made in 2007 from June 1 to December 31 of \$3,191.00 (being \$5,162.00, i.e. 13 x \$397.10, minus \$1,971.00 paid by Mr. Patriquen). I have not, in this calculation, considered the set-off that Ms. Stephen included in her calculations of this which related to the investment portfolio cashed out by Ms. Stephen, but rather have attempted to keep the mortgage consideration clear. I have dealt with the investments separately, given his share. Her calculations of this contained in the material before the Court are illustrative, however, of the convoluted manner in which this very, very complicated history these parties have developed between them has been presented to the Court.

[49] iv. In 2008 the mortgage arrears are \$8,339.10;

[50] v. In 2009 \$5,757.60;

[51] vi. plus \$42.50 x 2 for NSF cheques.

[52] The total then of mortgage arrears owed by Mr. Patriquen to Ms. Stephen is \$18,670.50:

\$	576.80
	721.00
	3,191.00
	8,339.10
	5,757.60
	42.50
	<u>42.50</u>

\$18,670.50

[53] (e) Credit Cards: Ms. Stephen's 2006 Statement of Property (signed in the fall of 2006) discloses credit card debt of more than \$57,000.00. She estimates half of two of those cards, one being the \$38,579.00 Visa bill with the Bank of Nova Scotia, the other being the \$9,216.00 with the CIBC Visa, to be matrimonial debt of \$47,795.00 (halved is approximately \$23,350.00). Given the separation date, the amount of these debts and what I regard as the reasonableness of this estimate, I conclude that this is matrimonial debt. Mr. Patriquen's counsel has argued that I should ignore this, that it was not pleaded. It was, however, before the Court and I have considered it.

[54] Ms. Stephen then, owes, when we review what we have here, Mr. Patriquen:

\$ 5,000.00 for chattels;

\$ 5,635.50 being one half of the \$11,271.00 investment account; and

\$ 12,500.00 for one half of the sold Lot A-13.

\$ 23,135.50 in total.

[55] Mr. Patriquen owes Ms. Stephen:

\$18,113.70 for the unpaid mortgage payments; and

\$11,175.00 related to the matrimonial debt I have just referred to
(\$23,350.00).

\$29,288.70 in total.

[56] I conclude that Mr. Patriquen owes to Ms. Stephen, considering these factors and using somewhat rough numbers (given the impreciseness of some of the material before me), \$6,000.00 in an adjustment at the closing. The division of property is to be an equal division apart from attribution of responsibility of Mr. Patriquen's Revenue Canada debt as discussed; and adjusted considering s. 13 of the *Matrimonial Property Act*

[57] Their relative shares of the property once sold will be adjusted to consider their relative responsibility for the property tax arrears and this \$6,000.00. As I have indicated, a divorce judgment will issue with the Corollary Relief Judgment.

[58] Adjournment slips will be provided for the two dates and the matter completed as I have indicated.

[59] Ms. Stephen is to go to Mr. King's office today before 4:30 p.m. to pick up an envelope with the names of three real estate agents.

[60] The closing does not have to occur before July 31 - but if an agreement of purchase and sale in place that has been accepted by Ms. Stephen, then in all likelihood the Court would adjourn the August date set (to make sure it closes).

[61] I am expressly retaining the jurisdiction of the Court under the *Matrimonial Property Act* - as the history of this situation suggests that the Court should have the discretion to deal with the possibility that there will be disagreements down the road.

[62] \$257,270.00 will be the listing price for the property.

COSTS

[63] Mr. King wishes an opportunity to make submissions on costs - within 30 days. **The matter is set down for two hours on July 22, 2010 commencing at 2:30 p.m. on my docket.** Mr. King will submit any documentation in support of his submission by the close of the work day on **Wednesday, June 30, 2010.** Ms. Stephen will file any reply by the close of the work day on **Friday, July 16, 2010.** I will limit oral submissions to 40 minutes each.

Halifax, Nova Scotia