

**SUPREME COURT OF NOVA SCOTIA**  
**Citation:** Doncaster v. Field, 2013 NSSC 245

**Date:** 20130725  
**Docket:** Tru: 1207-003679  
**Registry:** Truro

**Between:**

Ralph Ivan Doncaster

Plaintiff

v.

Jennifer Lynn Field

Defendant

**Judge:** The Honourable Justice Cindy A. Bourgeois

**Heard:** June 27, 2013, in Truro, Nova Scotia

**Written Decision:** July 25, 2013

**Counsel:** Ralph Ivan Doncaster, Self-represented  
Janet Stevenson, for Jennifer Lynn Field

**By the Court:**

**INTRODUCTION**

[1] The parties hereto are engaged in a divorce proceeding. Both have filed motions requesting additional disclosure from the other, which were heard consecutively by the Court on the same date. This decision will address both motions.

**CIVIL PROCEDURE RULES**

[2] Like many matters, the Civil Procedure Rules constitute the "starting point" for the Court's consideration of the motions before it. Rule 62.07 provides for disclosure in district family matters. Two subsections are applicable to the motions before me:

62.07(2) A party to a family proceeding may demand production by the other party at any time and, otherwise, Rule 14 - Discovery and Disclosure in General applies to the demand.

(3) A judge may order production in a family proceeding by a party, or a person who is not a party, under Rule 14.

[3] Both parties have submitted that some documents being requested are not relevant, and should not be disclosed. Rule 14.01 addresses the meaning of "relevant" as used in the Rules, as follows:

14.01 (1) In this Part, "relevant" and "relevancy" have the same meaning as at the trial of an action or on the hearing of an application and, for greater clarity, both of the following apply on a determination of relevancy under this Part:

(a) a judge who determines the relevancy of a document, electronic information, or other thing sought to be disclosed or produced must make the determination by assessing whether a judge presiding at the trial or hearing of the proceeding would find the document, electronic information, or other thing relevant or irrelevant;

(b) a judge who determines the relevancy of information called for by a question asked in accordance with this Part 5 must make the determination by assessing whether a judge presiding at the trial or hearing of the proceeding would find the information relevant or irrelevant.

(2) A determination of relevancy or irrelevancy under this Part is not binding at the trial of an action, or on the hearing of an application.

[4] There are several other provisions in Rule 14 which are considered helpful by the Court, including:

Rule 14.08(1) Making full disclosure of relevant documents, electronic information, and other things is presumed to be necessary for justice in a proceeding.

(2) Making full disclosure of documents or electronic information includes taking all reasonable steps to become knowledgeable of what relevant documents or electronic information exist and are in the control of the party, and to preserve the documents and electronic information.

And further:

Rule 14.12(1) A judge may order a person to deliver a copy of a relevant document or relevant electronic information to a party or at the trial or hearing of a proceeding.

## **THE MOTIONS**

### ***Ms. Field's motion***

[5] Ms. Field filed a Notice of Motion on May 14, 2013 seeking disclosure in relation to a number of itemized requests. By way of an amended motion filed June 6, 2013, the items of requested disclosure was lessened due to subsequent disclosure made by Mr. Doncaster. Also at the hearing, the Court was advised that several other requests had been satisfied.

[6] Based on the submissions, it would appear the following items requested by Ms. Field remain, in her view, outstanding:

1. Statements from Aeroplan for December 31, 2010 and the end of January 31, 2011;
2. The complete records and files of Ottawa-Carleton Mortgage Inc., 381 Richmond Road, Ottawa, Ontario, K2A 0E7 in relation to all transactions involving Ralph Doncaster or Ralph Doncaster in Trust;
3. Confirmation of all income received by Ralph Doncaster or any business entity controlled by Ralph Doncaster from IT consulting in Canada and the United States of America for each of the years 2009, 2010 and 2011;
4. Statements for account Identified as Interactive Brokers account no, U261955 as of December 31, 2010 and the most recent statement and disclosure on any other brokerage accounts held in Ralph Doncaster's name or in which Ralph Doncaster has an interest as of December 31, 2010;
- 5) Disclosure of all accounts an any other financial institution in which Ralph Doncaster had an interest as of December 31, 2007, which has not been disclosed. Statement for all undisclosed accounts to be provided;
- 6) Confirmation of any other assets not listed in Ralph Doncaster's statement of property;
- 7) Confirmation of all income received by Ralph Doncaster in 2011, 2012 and 2013;
- 8) Disclosure on disposition of all shares disposed of and identified in the letter from CRA dated April 23, 2013;
- 9) Documentary confirmation on the current location of the proceeds of the disposition of the shares identified in the letter from CRA dated April 23, 2013;
- 10) Documentation confirming the source and recipient of the following transactions to the joint line of credit:
  - a) October 22, 2010 - deposit of \$125,844.70;

- b) October 28, 2011 - deposit of \$241,813.96;
- c) October 18, 2012 - cheque in the amount of \$65,000

[7] Ms. Field's counsel suggested that it may be more appropriate to receive documentation directly from Interactive Brokers Inc. and Ottawa-Carleton Mortgage Inc. ("OCMI"), as opposed to requesting Mr. Doncaster to obtain this material.

[8] In reply to the motion, Mr. Doncaster asserts that he has provided to Ms. Field's counsel the documentary materials which he has available to him, and that he has nothing to hide. He expresses concern that some of the material requested, such as mortgage documentation from OCMI in his possession has been provided. He has nothing else. Although he does not object to OCMI providing this information, he raises concerns about the enforceability of any order made by this court directly against that third party. Mr. Doncaster further submits that much of the information does not exist - such as documentation of additional income and other assets. He has had no additional income, nor assets not previously disclosed.

[9] It should be noted that from the original filing of the motion to the hearing itself, the requested items shrank considerably due to Mr. Doncaster voluntarily complying with Ms. Field's requests. However, Ms. Field's counsel also asserts that significant portions of the material received from Mr. Doncaster was so voluminous, unorganized and unexplained, that it was not of any real use.

***Mr. Doncaster's motion***

[10] Mr. Doncaster filed a Notice of Motion of June 10, 2013, seeking financial disclosure. In the motion documents, five items were itemized, and as with the other motion, the actual items in dispute decreased by the time of hearing. The only matter remaining in contention was the request for:

1. An accounting of the \$100,000 that was withdrawn from the respondent's CIBC account on August 23, 2011.

[11] Mr. Doncaster had also requested copies of Ms. Field's Notices of Assessment for the tax years 2010, 2011, and 2012. Although Ms. Field agreed to provide these when received from the Canada Revenue Agency, Mr. Doncaster

expressed concern that this request was made many months prior, and he could not understand why it would take so long to have this information provided.

[12] The outstanding request appears to relate to an inheritance received by Ms. Field shortly before the parties separated. As an inheritance, Ms. Field submits this is excluded as a matrimonial asset and should not need to be disclosed. Even if there is disclosure, it should only be the funds that was received, but not an obligation to account, post-separation, what she did with the inherited funds.

## **DETERMINATION**

[13] In the Petition filed with the Court, Mr. Doncaster references a date of separation of January 1, 2012. In the Answer, Ms. Field asserts the parties have been living separate and apart since January 29, 2011. This is a factual determination which will need to be made at the divorce hearing. It would appear that neither party disputes the existence of various investment vehicles managed by Mr. Doncaster during the marriage. There is a real dispute as to the extent of funds remaining. Most of the information requested, by both parties, is relevant to the financial issues to be ultimately determined by the Court.

[14] In terms of the motion brought by Ms. Field, the following disclosure is ordered:

- a) Mr. Doncaster is to request and subsequently provide to Ms. Field his Aeroplan statements for December 31, 2010 and January 31, 2011;
- b) Notwithstanding the enforceability concerns raised by Mr. Doncaster, Ottawa-Carleton Mortgage Inc., shall provide a complete copy of all records and files maintained and controlled by it in relation to all transactions involving Ralph Doncaster or Ralph Doncaster in Trust;
- c) If Mr. Doncaster, or any business entity controlled by him earned income in Canada or the United States other than what has been previously reported on his Canadian income tax returns, he is to provide confirmation of same for each of the years 2009, 2010, 2011 and 2012;

d) Mr. Doncaster shall request statements of account for any and all brokerage accounts held by him, or in which he has an interest, with Interactive Brokers, as of December 31, 2010, as well as currently, and provide such materials received to Ms. Field;

e) In the event Mr. Doncaster has not previously disclosed same, he is to disclose the existence of all accounts at financial institutions held by him, or in which he has an interest, and provide statements in relation to such accounts for the years 2010, 2011 and 2012;

f) In the event Mr. Doncaster has failed to include any particular asset in his statement of property filed with the court, he is to disclose same;

g) Mr. Doncaster is to provide documentary disclosure relating to the disposition of the shares identified in a letter from Canada Revenue Agency dated April 23, 2013, as well as confirmation of the present location of the funds derived from said disposition;

h) Mr. Doncaster is to provide, either by copy of the instrument itself, or otherwise, documentation confirming the source of the entries to the parties' line of credit on October 22, 2010, October 28, 2011 and October 18, 2012.

[15] In terms of the motion brought by Mr. Doncaster, the following is ordered:

a) If she has not already done so, Ms. Field is to immediately request copies of her Notice of Assessment from Revenue Canada for the years 2010 and 2011 and provide same immediately to Mr. Doncaster;

b) Once filed, Ms. Field is to immediately provide Mr. Doncaster with a copy of her 2012 Income tax return, as well as the Notice of Assessment once it is received by her;

c) In the event Ms. Field has not included an asset in the statement of property previously filed with the Court, she is to disclose the existence of same;

d) Ms. Field is to provide written confirmation of the amount of inheritance funds received by her upon the death of her mother, either by way of

bequest or otherwise, and further provide documentary confirmation of the quantum of said funds retained by her as of January 1, 2012.

[16] Both parties are to further comply with any previous orders for disclosure rendered in relation to this proceeding.

Bourgeois, J.