

EDITORIAL NOTE: NAMES AND/OR DETAILS IN THIS JUDGMENT HAVE BEEN ANONYMISED.

**IN THE FAMILY COURT
AT NORTH SHORE**

**FAM-2015-044-000662
[2016] NZFC 7325**

IN THE MATTER OF THE CHILD SUPPORT ACT 1991

BETWEEN MERLYN BOARWRIGHT
 Applicant

AND BELINDA SMITH
 Respondent

Hearing: 29 August 2016

Appearances: Mr Boarwright is self represented
 Ms Smith is self represented
 Ms Chappell for the Inland Revenue Department

Judgment: 14 September 2016

RESERVED JUDGMENT OF JUDGE M J HUNT

[1] The Applicant Mr Boarwright has appealed two determinations made by an Administrative Review officer in respect of child support issues. The first determination is dated 2 November 2015, the second determination is dated 3 June 2016.

[2] Mr Boarwright and the Respondent Ms Smith are the parents of Paige, born [date deleted] 2005 and Dylan, born [date deleted] 2010. They are in Ms Smith's primary care.

[3] There are a number of issues arising from the separation of Mr Boarwright and Ms Smith including relationship property and parenting arrangements. There are also civil proceedings in respect of some of the outstanding balance owing by way of

child support under the current assessment. These proceedings are in some ways a reflection and continuation of that conflict.

First determination

[4] The first determination of November 2015 resulted in an adjustment to Mr Boarwright's taxable income, increasing it to \$85,870.76 for the period 21 August 2015 until 31 March 2016 and for the same period adding the sum of \$1,500 as a contribution to cover Mr Boarwright's care of school fees for Dylan for the year.

Second determination

[5] The second determination ruled that there was a departure under Ground 7¹ from the normal formula assessment for the period 20 April 2015 to 31 March 2016 by way of increase of \$5,301.54. This sum is in addition to the \$1,500 set under the earlier review and was to contribute to additional school costs for Dylan and residual costs not already covered for Paige who attended the same private school.

Process

[6] The Court received an application for suspension in respect of the first determination however His Honour Judge de Jong² was not satisfied that the circumstances were made out and considered that there were grounds to advance the proceedings to an early hearing.

[7] Applications to strike out the appeals for various aspects of non compliance were considered but not granted³.

[8] An application to suspend the second determination was not granted again in favour of expediting matters to an early hearing⁴.

¹ Reference to various grounds are a reference to s 105 of the Child Support Act 1991. Ground 7 is a reference to s 105(2)(b)(ii) that child is being educated in a manner that was expected by either of the parents.

² Decision of 13 November 2015, Paragraphs 1 and 3

³ Decision 17 March 2016 and 21 April 2016

⁴ Decision 29 July 2016

[9] On 23 June 2016 Her Honour Judge Partridge noted that the proceedings had not been served on the IRD and directed that be done. The IRD through Ms Chappell duly appeared at this hearing.

[10] At the commencement of the hearing Mr Boarwright indicated that he wished to cross examine Ms Smith and did so. This was not allowed to continue in a protracted way because the questions Mr Boarwright wished to address in large measure related to relationship property or other issues. They were not focused on the matter at issue and not helpful. Furthermore the child support inquiry is primarily about Mr Boarwright's circumstances.

[11] Ms Smith made submissions only.

[12] Counsel for the IRD assisted with the breakdown of the decisions made and a brief summary of the legal principles.

[13] This is an appeal under s 103(B) of the Act⁵. The appeal is by way of re-hearing. I had regard to the extensive affidavits which had been filed and to the submissions and evidence which I heard.

[14] The powers on appeal are specified in s 103(D) and include:

- (a) Confirm, modify or reverse any determination or decision appealed against (in whole or in part);
- (b) the making of a decision the Commissioner could have made in respect of the determination or decision appealed against;
- (c) exercise any of the powers that could have been exercised by the Commissioner.

[15] I was invited by Ms Chappel to consider if extending the determination to the 2016/2017 tax year as that was also subject to review.

⁵ Child Support Act 1991

Mr Boarwright

[16] Mr Boarwright's case in essence, in respect of both reviews, was that the review officer had misunderstood and misapplied his financial circumstances. In particular that his taxable income as he estimated it at \$41,807 was the proper basis for his child support assessment and that an increase for the period under review was not justified on any proper assessment of the facts.

[17] Mr Boarwright thought that Ms Smith had carried the day in the review process unfairly in terms of the merits of her argument.

[18] The first review also raised issues regarding Dylan's education costs. However the primary focus of the first review was on the question of Mr Boarwright's taxable income for child support. Mr Boarwright maintained in submissions and in the affidavits which he filed that his taxable income was properly estimated at \$41,807. Some understanding broadly of Mr Boarwright's circumstances are required to put this in context.

[19] Mr Boarwright is 55 years of age. During the relationship he was engaged in the [industry details deleted] industry and the parties owned and operated various businesses together. There was a considered and planned selling down of assets, such that in more recent times Mr Boarwright maintains he has not had the substantial revenue stream that he enjoyed in the past.

[20] The residual business they retain is operated through the company [name of company deleted]. Mr Boarwright maintained this had suffered from the impact of various things including a robbery, downturn in [details deleted] trade generally, [details deleted] law changes and other business related adverse events. There are varying estimates of its value and anticipated returns.

[21] The accounts for the year ending 31 March 2016 showed a net loss but Mr Boarwright acknowledges that part of the costs associated with operating that business include a wage and costs payable to him. There was some evidence that

income was at one point \$482.47 weekly at one point⁶ but that is assumed to be on a net basis rather than gross (or taxable).

[22] Mr Boarwright also operated a company which received residual monies from the sale of a [details deleted] business as income, although he asserted that that amount was retained in the company and had not been disbursed. Invoices from that company were attached to Ms Smith's affidavit and only some related to the vendor finance arrangement⁷.

[23] Furthermore Mr Boarwright maintains an aspect of self employment which he endeavours to generate income out of his specialist expertise in [industry details deleted]. He says that gave rise to a net loss of \$4,668 when he offset against other income.

[24] His initial estimate of the gross sum to be generated by him is \$60,830 but he maintains that includes the interest from a joint account and is subject to deductions of expenses of \$38,233, leaving a net assessable income of \$22,597.00⁸. No accounts were provided to substantiate the expenses. He then adds various amounts to get his taxable income of \$41,807.

[25] Despite a number of explanations it is not clear from Mr Boarwright what income is accounted for or what its source is and this is a recurring criticism by Ms Smith. His affidavit of financial information⁹ includes references to his gross earnings but it is not clear if that incorporates all the earnings from [name of company deleted]. His declaration¹⁰ includes some reference to payment for work and presumably relates to [name of company deleted]. There is no comprehensive reconciliation of all sources of funds or benefits received other than in cash. The declaration does not include the interest received from an overseas trust.

[26] There is also limited breakdown or particularising of deducted expenditure which seems to have included travel, accommodation and likely vehicle expenses.

⁶ Exhibit 2 – Page 26, Affidavit B Smith, 12 February 2016

⁷ Pages 27-32 inclusive Affidavit 12 February 2016

⁸ Paragraphs 2 to 6 Affidavit dated 21 June 2016

⁹ Dated 21 June 2016, Paragraph 3

¹⁰ Exhibit A to the Affidavit of 12 November 2015

Although he says these expenses are \$38,233¹¹ no details are provided to verify that they are appropriately deducted for child support purposes. So while taxable income is the basis of the calculation, the expenditure may well have been revealing about the earning capacity and financial resources he has access to and how he applies them.

[27] Ms Smith was critical of Mr Boarwright's representations as to his taxable income but could not demonstrate they were false for tax purposes. However that is not the comprehensive answer to the exercise which I must undertake which is to determine what his assessable income is for child support purposes. Mr Boarwright refers to his accountant and the accounts but in the end result gives only a very narrow and selected glimpse into his finances¹².

[28] Mr Boarwright also acknowledged that he receives distributions and benefits from the [name of trust deleted]. A comprehensive set of accounts for that Trust were not produced. The Trust owns a commercial building which was acquired during the term of the relationship. Approximately \$416,000 of personal funds (and likely relationship property) were advanced to the Trust for the purpose of acquiring the building. This may have been reflected in a loan from the parties. It seems that sum was repaid to Mr Boarwright at least in part¹³ and in turn re-advanced by him to the Trust to enable the Trust to acquire an additional residential property said by Ms Smith to have cost \$925,000 which Mr Boarwright now lives in.

[29] Mr Boarwright occupies the Trust property but pays no rent¹⁴ and although he accounts for the rates, insurance and other outgoings on the property as a benefit valued at \$8,314, he is not assessed for the purposes of any benefit in terms of notional rental or occupancy costs. He conceded that a nominal rental for such a property would be in the order of \$700 to \$800 a week.

¹¹ Paragraph 4 Affidavit of 21 June 2016

¹² Exhibit F Affidavit 21 July 2016 provides a summary but no details of expenses claimed and has been redacted

¹³ Paragraph 11 Affidavit 18 March 2016 "Yes I do not pay her accommodation myself"

¹⁴ Paragraph 25 Affidavit 12 November 2015

[30] What Mr Boarwright did was produce a rental statement from the [name of trust deleted] accounts showing that the net income return for the commercial building was in the 2015/2016 year the sum of \$11,659.

[31] Mr Boarwright is critical that the review officer in his opinion wrongly assessed that income as his own when he said:

“It is clear however from Mr Boarwright’s own evidence that the interest on the mortgage for the property he resides in is being paid from the Trust in to which the commercial property rent goes. That is I believe an additional resource available to Mr Boarwright in addition to his income from [details deleted]. That amounts to \$44,000 per annum and added to his income as above makes a total income of \$85,807.76.”

[32] Mr Boarwright says two things. Firstly that the Trust income is not his and secondly that the income is overstated. He may be correct but the simple fact is he receives a substantial benefit from the Trust that he has not accounted for on his own evidence in terms of rent free accommodation.

[33] Mr Boarwright was said by Ms Smith to have had income from another Trust which Mr Boarwright said was his grandfather’s Trust and that showed income distributed and undistributed to him in the 2015/2016 year. Mr Boarwright produced an IRD receipt showing that he had disclosed overseas income of \$23,142.59 and took issue that there has been non disclosure but it is not clear to me that that income has ever been included in the calculations for child support although it may have been declared for tax purposes. If that is the case then on the face of it the interest would account for a majority of his taxable income. Again I note it is not included in his initial estimate of income¹⁵.

[34] Accordingly, the evidence from Mr Boarwright was that he received income sourced from overseas of \$23,142.59, he received the benefit of rent-free accommodation (which he did not account for) and the Trust funded the rates, insurance and other outgoings (which he did account for)¹⁶. He received income from [name of company deleted] and generated income from his own self employed

¹⁵ Exhibit A Affidavit 12 November 2015

¹⁶ Paragraph 11 Affidavit 18 March “My wages and fees received from [name of company deleted] (including the weekly amount of \$482 were added into the figures and provided to the Review Officer as well as in my estimate of income for child support purposes for the 2015/2016 year.

undertakings but claimed that they were to be considered net of costs without revealing the costs. In fact he sought to offset the loss. He also confirmed that he received assistance from family to travel to [name of country deleted] on a number of occasions.

[35] He had previously taken issue with the expectation that the children would attend the school in which they were enrolled but it did seem to me this was not actively pursued in the course of the appeal. Paige attended the school by agreement and the proposition that Dylan would also go to that same school seemed straightforward.

[36] Mr Boarwright expressed the expectation and hope that he might increase his income with employment opportunities in future but that at present his income earning ability and his outgoings were such that he could not pay child support at the rate assessed by the administrative review. With respect to the second review he complained the sum simply added to an already unpayable sum.

[37] Mr Boarwright had previously sought a review to reduce the child support below the level assessed initially on the basis that he was providing support for his adult son Joseph. Mr Boarwright in his statement of income acknowledges that in the relevant period ending 19 June 2016 he supported his son with \$18,250¹⁷. Such support he says is simply honouring a longstanding commitment and out of a sense of even handedness with his other child who he supported through university. He did previously say he could not afford the payments to his son¹⁸. Notwithstanding that evidence a total of \$18,250 was paid¹⁹.

[38] He documents the payments made in respect of Paige and Dylan as being [name of school deleted] \$9,053, child support \$7,210, other expenses for Paige and Dylan \$2,137 plus singing lessons \$517.

¹⁷Paragraph 36 Affidavit 21 June 2016

¹⁸ Paragraph 3 Affidavit 18 March 2016 “It is stated I am “able to find \$1,895.87” to give to my son Joseph. I have not checked that figure and it seems high...Eventually, however, I was unable to meet the cost of his university fees....”

¹⁹ Paragraph 30 Affidavit of Financial Information 30 June 2016

Ms Smith

[39] Ms Smith did not seek an increased sum but sought to uphold the amount fixed by the reviewer.

[40] She observed that Mr Boarwright asserted that he had in what he described as extremely difficult financial circumstances and under the constraints of a, “strict budget” recorded his expenditure and asserted that over the 52 weeks ending 19 June 2016 it was a total of \$164,266.

[41] She points to that sum as an indication that he has funds available to him because he does not disclose borrowings or the source of those monies and he maintains that that list does not include expenses associated with his business. She points to that as an indication that his means and resources are substantial and that accordingly that there is no basis for a finding that the child support is inappropriate.

[42] Ms Smith was cross examined briefly although much of the questioning was directed in my view towards relationship property and the apparent mutual distrust that exists between the parties. It did not assist me.

[43] Ms Smith maintained that a combination of the lack of disclosure and that disclosure which did exist meant that the assessment made by the administrative officer was correct. She complained that there had been a pattern of piecemeal and non disclosure such that there was real difficulty understanding the true position so far as Mr Boarwright was concerned and that ultimately the sums ordered should be payable as well as costs. She referred to her submissions that dealt with both matters of principle and matters of fact. I have read both.

[44] Ms Smith did also assert that having regard to the assets there should be substantial extra income generated although there is no basis for me to conclude that all of the assets, for example of the [name of trust deleted], are such that Mr Boarwright should have access to them or indeed that there is any mismanagement of Trust assets producing less income that they should.

[45] The substance of Ms Smith's case focused on the various sources of income and financial support and the proposition that Mr Boarwright had financial resources not properly reflected in his taxable income as declared by him.

[46] My understanding of the incremental child support that would otherwise be payable by virtue of upholding the determination is that approximately \$12,000 would be payable over and above that which has already been paid to date. This includes the sum of \$6,000 which Ms Smith has "uplifted from the IRD" and sought summary judgment for and a balance sum still owing to the IRD.

[47] Ms Smith also seeks costs of \$17,370 on the basis that she is a barrister acting for herself and entitled to recover legal fees in such circumstances²⁰.

Review decision

[48] The determination by the Commissioner of 2 November relied on a finding under Ground 8 which is that by virtue of special circumstances application of the provisions of the Act relating to the formula assessment of child support will result in an unjust and inequitable determination of the level of financial support to be provided by the liable parent for the child because of the income, earning capacity, property and financial resources of either parent or child²¹.

[49] The review documented the allegations and counter allegations and made a finding. It is not clear that the factual finding as to income was one which applied to a part year only. The analysis seemed to address a full year's income and referred to the sum as a total income conclusion was that the income would be applicable for a period from 21 August 2015 until 31 March 2016.

[50] The review also referred to the determination of *Savery*²² referring to significant changes in income resulting in inequitable sharing of the burden of child support. However this is not really a case of change in income as much as it is an

²⁰ *Brownie Wills v Shrimpton* [1998] 2 NZLR 320

²¹ Section 105(2)(c)(1)

²² [1990] FLC 92-131 *In the Marriage of Savery* (1990) 13 FAM L12 812 at 816; [1991] FLC 92-131

inquiry into the income Mr Boarwright can expect to receive and financial resource he can utilise in turn affecting the ability to pay child support.

[51] The question of what earning capacity means is at issue and the Court in *Johnson v Commission of Inland Revenue*²³ said:

“In *Ropiha v Ropiha* [1979] 2 NZLR at page 247 the Court of Appeal held that:

“...We use the term “means” in the broadest sense to encompass any sums which the Applicant could reasonably be expected to earn from his or her own efforts during the term of any interim order together with any other funds available to the Applicant during that period....In principle it is immaterial in that regard whether the source of funds is employment reasonably available to the Applicant, private income, resources of capital, or welfare benefits provided by the state or some other body”.

[52] The section of the Act incorporates financial resources as well as income earning capacity as considerations. The administrative review took in to account broader financial resources available to Mr Boarwright and was entitled to do so although it is not clear how the factual finding was calculated in particularly the additional sum of \$44,000 or how it applied to a part year.

Discussion

[53] The difficulty with what is set out in the administrative review is that it is not transparent how the calculation was made. Mr Boarwright was said to have conceded that the sum of \$2,000 per month was payable in respect of bridging finance on a house loan but did not say who paid that. What he conceded before me and in his evidence was that he made no payments in respect of the occupation of his property. He conceded that a rental of \$700 to \$800 per week would be properly payable for the property.

[54] Furthermore he also conceded that a sum which he described as living income was contributed by the Trust to him which included water, electricity, gas, rates and various maintenance costs associated with his house. The sum attributed to

²³ [2002] NZFLR 648

that was the sum of \$8,314. I acknowledge if he rented he would not normally pay all of the additional outgoings.

[55] The statement of income²⁴ discloses expenditure of \$164,000 without disclosing the source of those funds and on the face of it without including employment related expenditure. They must be funded from a source.

[56] It is also noteworthy that costs associated with Mr Boarwright's son Joseph were incurred of \$18,250 and whilst he maintains that they are justified and an obligation they are non-recurring expenditure and also evidence of capacity to pay where he chooses to do so.

[57] The calculation of Mr Boarwright's means is not as straightforward task as it should be. He does not consistently provide all of the statements of account. For example, the details provided relating to the [name of trust deleted] are limited to a summary of rental income but no other detail about the total income or outgoings including distribution and expenses. Bare assertions of are rent return do not assist in understanding the benefits Mr Boarwright receives.

[58] It seems likely that Mr Boarwright was receiving regular income from [name of company deleted] but other than the document which refers to the weekly sum²⁵ there is no clear statement of the total amount received nor is there a comprehensive statement of the income and deductible expenditure associated with Mr Boarwright's consultancy and business activities. There is reference to a limited gross income of \$7,778 as his taxable income subject to PAYE²⁶ but nothing to indicate its source. The [name of company deleted] profit and loss shows a taxable loss but it appears to have a positive cash flow²⁷.

[59] As Mr Boarwright complains it is not clear where the sum of \$44,000 comes from in the review decision but neither is it clear that the income as he estimated incorporates many of the income streams in particular the total income from self

²⁴ Affidavit dated 21 June 2016 Statement of Financial Position at paragraph 30

²⁵ Paragraph 26, Affidavit 12 February 2016 of Ms Smith and paragraph 11 Affidavit of Mr Boarwright dated 18 March 2016

²⁶ Exhibit F Affidavit 22 July 2016 which significantly is not complete as it has some redacted portions as to the source of the balance income

²⁷ If depreciation of \$16,962 as a non cash item is added back then the business would likely be cash positive

employed work, income from overseas which according to the document produced by Mr Boarwright was returned for tax purposes at \$23,142.59 or the benefits accruing from the arrangements with the trust for payment of the outgoings in respect of his home.

[60] It is also not clear if any of the deductions he claims could be brought to account as part of his financial resources. A taxable income of \$29,469 when there is already interest income of over \$23,000 requires explanation. The claimed expenses should have been disclosed if the “loss” is to be accepted.

[61] Mr Boarwright complained that if he had owned the home then he would have been responsible for the outgoings. The short point is that he does not and if he did the equivalent arrangement would see the Trust provide financial support to him to meet the outgoings on the property to reproduce the equivalent situation i.e. no cost accommodation. A sum equivalent to the cost of owning the property would be the minimum amount. The information provided suggested that the purchase of the home amounted to some \$925,000 and that Mr Boarwright’s advance to the Trust was only in the sum of \$416,000, some of which likely comprised relationship property although I am reluctant to embark upon any assessment of what might or might not comprise relationship property.

[62] The fact remains Mr Boarwright elected not to buy the property in his own name and as a result he does not take responsibility for the payment of outgoings. He receives assistance in that regard from the Trust while he also advanced a substantial sum to the Trust without claiming any interest. Mr Boarwright organised his affairs in such a way that his taxable income is reduced but while the real benefit of funds available to him and costs met on his behalf is substantially higher. He receives benefits from the Trust on my assessment equivalent to the cost of housing himself. These are properly brought into account.

[63] Joining together those threads the only residual concern I have is that the amount assessed of \$85,807.76 is attributed to a period of between 21 August 2015 and 31 March 2016 which on an annualised basis assumes a tax income of over \$120,000.

[64] Adopting the lower figure of \$700 per week there is a benefit to Mr Boarwright of at least \$36,400 from the rent free occupancy of the family home. I have no basis for calculating the cost of the borrowings to the Trust but noting some funds are borrowed from Mr Boarwright interest free and Mr Boarwright presently receives assistance from the Trust of the sum equivalent to the rental cost of the property. If the borrowings are actually funded at a lesser level than the notional rental then it is his failure to provide that information means that I am not in a position to make a judgment about that.

[65] I conclude that Mr Boarwright's assessable income for the full year assuming ongoing entitlements from [name of company deleted], the overseas Trust income and continued assistance for his accommodation, are such that it would be appropriate to calculate his annual assessable income as \$90,000.

[66] I deliberately eschew a fine grained approach to the assessment but the combination of the Trust assistance, overseas funds, [industry details deleted] income and business income could account for sums in excess of that. His own estimate of gross earnings was said to be \$60,830²⁸. The deduction of \$38,233 with further explanation as to the breakdown cannot be accepted without explanation and Mr Boarwright has not provided detail. The benefit of the Trust arrangement is significant as is the evidence of his expenditure as indication of his means.

[67] Mr Boarwright's affairs are in a state of flux and matters of relationship property have to be resolved.

[68] Determining his assessable income for the 2016/2017 year involves a predictive assessment but I did hear sufficient to form the view that I can estimate that he will earn a similar sum in that year.

[69] To provide certainty to the parties, \$90,000 is fixed as Mr Boarwright's income for the 2016/2017 year as well.

²⁸ Paragraph 3, Affidavit of Financial Information 21 June 2016

Second review and education fees

[70] The first review addressed contributions to Dylan's education fees for a part term only. The argument essentially arising out of decision making regarding Dylan's education. The review concluded that such an adjustment was proper on the basis that Dylan's sister was being educated at the school of choice and that a contribution to education costs was appropriate. Ground 7 was found to be established.

[71] The second review decision fixed some additional contribution to education costs. Mr Boarwright acknowledges that there is a commitment to the private school fees and an agreement that he would share the costs of Paige's fees. The finding was that it was not unreasonable for Dylan to attend the same school as his sister and that they were special costs and further that it was fair and reasonable that Mr Boarwright contribute to half of the school fees for both children.

[72] A departure was made increasing Mr Boarwright's formula assessment liability. Mr Boarwright is not being asked to meet more than half of the cost. I can see no grounds for interfering with the determination of the reviewer and agree with it.

[73] The children are at the school in circumstances where it is not a cost covered by child support and where that has been a shared responsibility and initially a shared decision. I accept Ms Smith's resources are presently limited and assistance is required.

[74] Mr Boarwright was required to pay \$5,301.54 plus \$1,500, a total of \$6,801.54 in respect of the period 20 April 2015 to 31 March 2016 being a contribution to school costs.

Outcome

[75] I have come to a similar conclusion to the review officer although it is not identical as to quantum.

[76] The first review decision is set aside and an annual sum of \$90,000 is fixed as Mr Boarwright's annual taxable income for 2015/2016 and 2016/2017 years.

[77] He is also to pay \$1,500 to Dylan's education costs for the 2015/2016 year.

[78] I uphold the second review decision and dismiss that appeal.

Costs

[79] Ms Smith seeks an order for costs in the sum of \$17,370. She relies on the proposition set out in *Brownie Wills v Shrimpton*²⁹ that there is a long established rule as an exception to the general or known costs for a litigant in person that a practicing barrister and solicitor who brings or defends a proceeding in person or by a partner or employee of the firm is entitled to the same costs as when acting on behalf of a client. So the lawyer litigant may have the same costs as if another lawyer had been instructed but cannot of course charge for consulting, instructing or attending upon himself or herself.

[80] Ms Smith does not substantiate the claim for costs by any time records but indicates that the hourly rate charged is \$300 per hour in respect of time spent. Nor does she reconcile her claims to scale costs.

[81] Plainly Ms Smith does not intend to invoice herself and in that regard it is not apparent that time spent has been at the expense of other fee paying work. I appreciate that is not the test but I am concerned that the amount claimed potentially exceeds the amount at issue and that the parties have contributed to what has become an unnecessarily prolix and conflicted proceeding. Much of what has been filed was unnecessary and not clear.

[82] Ms Smith has been successful in part only. Mr Boarwright has made things difficult with the failure to be clear and in transparent terms set out his financial position in totality.

²⁹ [1998] 2 NZLR 320

[83] It also appears to me that the relationship property situation and conflict between the two parties has resulted in a lack of appropriate focus on the child support issues in this matter.

[84] I make an order for costs in the sum of \$2,000 as I consider that fairly reflects the matters generally at issue and a measure of success to Ms Smith but balanced with that the adjustments I considered appropriate to make to the review decisions.

M J Hunt
Family Court Judge