|  |  |
| --- | --- |
| 22 July 2022 | Our Ref: HeeKha:0603<<IF (Addressee/Matter Reference) Equal () THEN>><<ELSE>>  Your Ref: <<Addressee/Matter Reference>><<END IF>>  Principal: Cassandra Kalpaxis |

Mr F Gutierrez

Avondale Lawyers

PO Box 923

DRUMMOYNE NSW 1470

By email only: office@avonlaw.net

Dear Colleague,

**RE: BENSON & BENSON - PROPERTY MATTERS**

We refer to the above-mentioned matter, and to your correspondence dated 27 June 2022.

We note that there are various requests for disclosure in your correspondence that have already been answered in our correspondence dated 6 May 2022.

We do not propose to enter into duplicitous correspondence to the expense of our client noting that these sorts of request are causing the delay in these proceedings.   
  
Your request for disclosure as contained under cover of letter dated 27 June 2022 is duplicitous in nature in that these requests for disclosure were answered on 6 May 2022 by this office. The ongoing need to engage in correspondence which answers and addresses the same request is an unnecessary expense of the parties’ financial resources and has been the cause of considerable delay in this matter since the Application was filed by your client on 17 November 2021.

In an effort to expedite this matter so as to effect a timely resolution for the parties and minimise the need to expend any further financial resources on the issue of disclosure, we have gone to the effort of setting out and responding to each request under the cover of your letter dated 27 June 2022.

Please note that we will not be doing so again in circumstances where your office is requesting the same disclosure on no less than two occasions.

We respond to your client’s requests as follows using the same headings:

1. **Gary’s Superannuation**
2. ***Associate Trust Deed for SMSF***

We refer to our correspondence dated 6 May 2022 indicated that our client has never held a self-managed superannuation fund and therefore this document does not exist.

1. ***Associated Income Tax Returns for SMSF***

It has been explained to you under the cover of our letter dated 6 May 2022 that our client does not possess such a document as our client has never held a SMSF.

1. ***Associated financial statements for SMSF, including balance sheet, profit and loss statement and depreciation schedule***

We consider this request to be fruitless in light of the fact that our client has never held a SMSF.

1. ***DJB Super Host Plus Membership ending 6014***

We refer to our correspondence dated 6 May 2022 indicating that our client has never held such an account, and this is a superannuation account held by your client, of which your client has not disclosed.

As you may be aware, under the cover of our letter dated 6 May 2022, our client has now informed you through this office on no less than 2 occasions that this is an account for which your client is the named account holder. In the circumstances we are perplexed as to why you continue to seek disclosure about an account to which our client has no interest or control over and your client is the exclusive beneficiary of.

To this, we request once more that your client comply with her disclosure obligations and in fact provide our office with all relevant documents with respect to this account.

We do not propose to reiterate again in any further correspondence that our client has no interest in this account or any other such account that your client holds in her sole name.

1. ***GSB Super Host Plus Membership ending 3369***

We again refer to our correspondence dated 6 May 2022 indicating that our client has never held a Host Plus Membership.

1. ***GSB Superannuation CBS or CFS***

We again refer to our correspondence dated 6 May 2022 indicating that our client has produced by way of disclosure on 8 February 2022. That disclosure contained a confirmation of the roll over from the Colonial First State Rollover & Superannuation Fund to FirstChoice Wholesale Personal Super dated 5 October 2021.

1. **Gary’s Betting Accounts**
2. ***TAB Account***

Gary to provide TAB Account statement for 18 January 2022 to date.TBP

1. **Gary’s Bank Accounts**
   1. **CBA Bank Accounts**
2. ***CBA Account ending 8839***

We confirm that on 8 February 2022 disclosure for this account was disclosed for the period 31 January 2020 to 30 December 2021. We note that your inference that our client has not disclosed between the period 1 January 2020 to 29 June 2021 is incorrect.

Please see ***attached*** copies of the account number ending 8839 for the period 31 December 2021 to 30 June 2022

1. ***CBA Account ending 7500***

Please see ***attached*** our clients bank statement for the account number ending 7500 for the period 1 November 2021 to 30 April 2022.

1. ***CBA Account ending 1413***

We refer to our correspondence dated 6 May 2022 wherein we advised you that this account is a joint account which was closed on 23 June 2021.

We note that your client has the same access to archived bank accounts via CBA internet banking or by simply contact CBA herself to obtain such statement. Our client does not propose to undertake an exercise that your client is able to undertake within her own purview.

1. ***CBA Account ending 7500***

We note that this appears to be a duplication and has already been answered within the context of this letter and on 6 May 2022. We refer to paragraph 3.1(b) above.

1. ***CBA Account ending 6730***

We refer to our correspondence dated 6 May 2022 wherein we advised that this bank account has been closed. Our client is unaware of the date this account was closed however we are instructed that it was closed well before the company InterCash Pty Ltd was deregistered. InterCash Pty Ltd was deregistered on 13 May 2020 and the statements for this account are no longer available from CBA.

1. ***CBA Account ending 7828***

We again refer to our correspondence dated 6 May 2022 wherein we advised you that this is not an account required to be disclosed by our client. We are instructed that this is in fact your client’s personal bank account and our client has never had access to this account. We again note that the bank statements for this account have not been disclosed by your client.

Our client is perplexed as to why requests are being made by your client on a duplicitous basis for accounts that are held in her own name and not within our client’s control. Our client has now informed you on no less than 2 occasions that this is in fact your clients personal account to which our client does not have access.

1. ***CBA Account ending 1404 – home loan***

We refer to our correspondence dated 6 May 2022 wherein we advised you that this was a joint account which has since been closed. Your client has the same access to the statements as our client via CBA internet banking or by simply contacting CBA herself.

1. ***CBA Account ending 1404 – misa***

We refer to our correspondence dated 6 May 2022 wherein we advised you that this was a joint account which has since been closed. Your client has the same access to the statements as our client via CBA internet banking or by simply contacting CBA herself.

1. ***CBA Account ending 3637 – client trust account***  
     
   We refer to our correspondence dated 6 May 2022 wherein our client disclosed statements for this account for the period between 6 April 2014 and 5 January 2022. Our client also disclosed a download of subsequent transaction from 23 November 2021 to 19 April 2022.

We note that your inference in your letter that our client has provided no disclosure in relation to this account is incorrect and in fact has now complied with his disclosure obligations on no less than 2 separate occasions.

1. ***CBA Account ending 8534 – share buy/sell***

We refer to our correspondence dated 6 May 2022 wherein our client disclosed statements for this account for the period between 14 June 2014 and 30 April 2022 despite your client being a director of the company GK Investments Pty Ltd. We note that your inference that our client has provided no disclosure in relation to this account is incorrect.

1. ***CBA Account ending 2878 – Business Online Saver***

We are instructed that your client is in fact a director of this company and as such holds obligations that are owed to various organisations and entities in that position.

However, our client has obtained the attached copies of the account number ending 2878 for the period 19 June 2015 to 18 June 2022

1. ***CBA Account 9422 – Viking Equities Pty Ltd***

We again refer to our correspondence dated 6 May 2022 wherein we advised you that this bank account was closed during the financial year 30 June 2016 and the statements for this account are no longer available.

Gary, have you attempted to obtain access to these statements, noting that statements are usually accessible for the past 7 years? Yes, closed accounts only accessible for 2 years.

1. ***CBA Smart Access Account ending 7879***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that this is your client’s personal account, and our client has never had access to this account. We note that your client has failed to disclose bank statements for this account.

Once more we are perplexed as to why your client is seeking disclosure in relation to an account that she solely operates.

1. ***CBA Cash Investment Account ending 1413 This is a duplication of 3.1(c) above.***

We again refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed this was a joint account which has since been closed. Your client has the same access to these statements as our client would via either CBA internet banking or by simply contacting CBA herself.

* 1. **St George Accounts**

1. ***St George Bank Account ending 6480***

Please see ***attached*** bank statements for this account for the period 9 September 2021 to 8 March 2022.

1. ***St George Bank Account ending 8812***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed this account is your client’s personal bank account and our client has never had access to this account. We note that your client has only made disclosure for the period 19 April 2021 to 16 June 2021. All other statements relating to this account remain outstanding.

* 1. **GSB Foreign Bank Accounts**

1. ***GSB Foreign Account ending 0872***

We again refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that this account is not known to our client.

1. ***GSB Foreign Account ending 8508***

We again reiterate that we are instructed this account is not known to our client.

* 1. **Wells Fargo Bank Accounts**

1. ***Wells Fargo Portfolio Checking account ending 8893***

We note that on 6 February 2022 our client disclosed this account for the period 1 June 2021 to 31 December 2021.

This account was opened on 1 July 2021.

Please find ***attached further*** statements for this account for the period 1 January 2022 to 30 June 2022.

1. ***Wells Fargo Cheque Account ending 3924***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed this is your client’s personal account and our client has never had access to this account. We note that to date your client has failed to disclose the statements for this account.

1. ***Wells Fargo Savings Account ending 0445***

We note that your inference that our client has not provided any disclosure for this account is incorrect. We confirm that statements for this account were disclosed on 6 May 2022 for the period between July 2019 and December 2021.

Please find attached further statements for the period 1 January 2022 to 21 July 2022.

1. ***Wells Fargo Way2Save US Account ending 7159***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed this is your client’s personal account and our client has never had access to this account. To date, your client has failed to make any disclose relating to this account.

1. ***Wells Fargo Portfolio Checking US Account ending 4211***

Please find ***attached*** statements for this account for the period 1 January 2022 to date. - NO! Final statements have already been provided for this account up to the date of closure.

* 1. **ANZ Bank Accounts**

1. ***ANZ Bank account ending 1930***

Please find ***attached*** statements for this account for the period 1 July 2021 to 30 June 2022.

* 1. **Barclays UK Bank Accounts**

1. ***Barclays UK Bank Accounts***

We refer to our correspondence dated 6 May 2022 wherein we confirmed that the bank accounts relevant to the Barclays UK Bank Accounts held by our client end in 4985 and 6089.

We confirm that on 6 May 2022 our client disclosed the reserve account ending in **4985** for the period between 10 April 2018 and 12 November 2021 and the premier account ending in **6089** for the period between 7 April 2018 and 12 November 2021.

We noted in our correspondence dated 6 May 2022 that these bank accounts were subsequently closed and therefore there are no further bank statements to be disclosed.

* 1. **Neteller US Bank Accounts**

1. ***Neteller US Bank Account ending 4498***

We again refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that this account has been closed for over five years and our client does not hold any records in relation to this account.

* 1. **Macquarie Bank Accounts**

1. ***Macquarie Savings ending 4933***

We note that disclosure relating to this account was made on 8 February 2022 for the period 9 August 2021 to 7 December 2021.

Your client has requested statements between the period 1 January 2020 to 8 August 2021. These records are simply non-existent as you will note upon review of those statements disclosed, that the account was opened on 9 August 2021.

Please find ***attached*** statements for this account for the period 8 December 2021 to 30 June 2022.

1. ***Macquarie Investment Management Account ending 2629***

We note that your inference in your letter that our client has made no disclosure in relation to this account is incorrect.

We confirm that on 6 May 2022, our client disclosed statements for this account for the period 30 June 2013 to 31 December 2021.

* 1. **ASB Bank Accounts**

1. ***ASB Streamline NZ Account ending 5401-00***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that this is your client’s personal bank account, and our client has never has access to this account.

We confirm that to date, your client has failed to make any disclosure relating to this account.

* 1. **IMB Bank Accounts**

1. ***IMB Bank Account ending 6061***

We note that disclosure relating to this account was made on 8 February 2022 for the period 13 November 2020 to 31 December 2021.

Your client has requested statements between the period 1 January 2020 to 12 November 2020. These records are simply non-existent noting that you will see upon review of those statements disclosed that the account was opened on 13 November 2020.

Please find ***attached*** statements for this account for the period 1 January 2022 to 30 June 2022.

* 1. **BNZ Bank Accounts**

1. ***BNZ Account New Zealand***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that this account was closed on 7 May 2022 and our client does not hold any records in relation to this account.

Gary, can you obtain any documents relating to this account being closed? No. Have you made any attempts to do so? No, was I supposed to?

1. **Gary’s Credit Cards**
2. ***Commonwealth Bank Visa Card (limit $40,700) Account number 1619***

Please find ***attached*** statements for this account for the period between 4 January 2020 to 3 December 2020 and 6 January 2022 to 4 July 2022.

1. **Gary’s Trust, Business and Company Interest**
2. ***Gary Benson Family Trust Deed and associated documents***

Is the Benson Family Trust still operating? If not, when did it cease operating?

We have not disclosed any documents in relation to the trustee company other than bank statements for G K Investments Pty Ltd.

Is there more than one Trust? What are the names? Who are the directors/appointers/beneficiaries? Are there Trust Deeds? Please provide if so.

There is not and has never been an entity known as Gary Benson Family Trust.

I provided you with the 2021 Income Tax return of Benson Family Trust (together with my personal 2021 income tax return) when I lodged them on 23 May 2022. This is the one and only trust.

The Trustee of Benson Family Trust is G.K. Investments Pty Limited. In the dropbox is the ASIC Annual Return of G.K. Investments Pty Limited.

I am not aware of the existence of the trust deed, but Debra Benson may have a copy being the majority shareholder and director of G.K. Investments Pty. Limited. If so, could she produce it please?

Other than a few dollars in the bank (as disclosed) the Benson Family Trust has no realisable assets. It does own approximately 15,000,000 shares in Classic Minerals Limited however these are not realisable despite having a theoretical market value of approx. $15,000. I am more than happy to have these shares transferred from the trust to Debra for $15k as part of her settlement proceeds. I would like to retain the company (and the Benson Family Trust) which would require her transferring her shares in G.K. Investments Pty Limited to me.

1. ***Gary Benson business material***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that our client has no business interests.

1. ***Joint Funds held in Trust by GSB***

There are no joint funds held in trust by GSB!

This request for particulars in incredibly vague. It does not specify which trust you are referring. Please provide particulars as to the trust you are referring to so that we may obtain instructions from our client.

1. **Gary’s Income and Tax**
2. ***Income Tax Returns***

Please find ***attached*** our client’s Income Tax Returns for the financial year ending 2021 and 2022. – on 23 May 2022 I sent you a copy of my 2021 income tax return when I lodged it together with a copy of my Annual GST statement

2022 has not been prepared yet.

1. ***Notice of Assessment***

Please find ***attached*** our client’s Notice of Assessment for the financial year ending 2021 and 2022. 2021 not assessed yet (to the best of my knowledge bearing in mind I have been absent from Australia since 25 May 2022) and 2022 not lodged yet.

1. ***Income Activity Statement***

We refer to our correspondence dated 6 May 2022 wherein we advised you that we are instructed that our client does not have any business interests and therefore there are no income activity statement that exist to disclose.

1. ***Business Activity Statements***

We again reiterate that our client has no business interest.

We noted in our correspondence to you on 6 May 2022 that our client is registered for GST and as such he is required to submit business activity statements. We enclosed in our correspondence dated 6 May 2022 our client’s business activity statements for the financial year ending 2019 and 2020.

Please find ***attached***, a copy of our client’s business activity statement for the financial year ending 2021. This was provided to you on 23 May 2022 Heela.

1. ***ATO Running Balance Account and/or integrated client account (PAYG Tax Payer).***

We refer to our correspondence dated 6 May 2022 advising you that we are instructed there is nothing to disclose noting that our client is not an employer.

1. **Property**
2. ***5 Bradman Road, Menai sold on 24 June 2019 - $980,000***

We note that on 6 May 2022, our client disclosed the settlement adjustment sheet relating to the sale of the property dated 5 August 2019.

Noting that your client was on title, she should be able to access such documents by way of contacting the solicitor/conveyancer who acted on the conveyance for the sale of this property.

Gary, we have the contract for the purchase of this property. We do not have the contract for the sale. Do you have a copy? If so, please provide. It is in the dropbox.

1. ***21 Ilma Avenue, Kangaroo Point sold June 2021 - $6,000,000***

We are perplexed as to why your office is requesting disclosure in relation to the sale of this property noting that your office acted on behalf of Ms Debra Benson in the conveyance.

Your office should hold all relevant documents relating to the sale of the Kangaroo Point property.

1. ***37 Alnwick Avenue, Walkworth, New Zealand***

Again, we are perplexed as to why your office is requesting disclosure relating to this property noting that this is not a property owned by our client and it is a property that she has purchased with her new partner Mr Richard Crabb.

We refer to our correspondence dated 6 May 2022 wherein we brought to your attention that this is a property for which your client is required to disclose material. To date, your client has not complied with such obligations of full and frank disclosure.

1. ***$100,000 Part Settlement***

We refer to our correspondence dated 6 May 2022 wherein we noted that we do not understand what this request relates to and yet your office has failed to particularise what this request is in relation to.

1. ***$4,000 Part Settlement***

We refer to our correspondence dated 6 May 2022 wherein we noted that we do not understand what this request relates to and yet your office has failed to particularise what this request is in relation to.

1. ***$78,000 Shares Sale***

We refer to our correspondence dated 6 May 2022 wherein we noted that we do not understand what this request relates to and yet your office has failed to particularise what this request is in relation to.

1. ***$59,500 Blue Tesla***

We are instructed that there are no sale receipts available noting that our client retains this vehicle.

With respect to the $59,500, we refer to our correspondence dated 9 May 2022 wherein we advised that we are instructed that these are funds that your client received on account of half her share of the Blue Tesla as part of the interim settlement agreement reached between the parties in February 2020.

We again note that given your client received the sum of $59,500, it is your client’s obligation to provide disclosure as to how those funds have been utilised. We note that we requested disclosure in relation to same on 9 May 2022 however, to date your client has failed to do so.

1. ***$178,689 Black Tesla***

Gary, is this a vehicle you retain? Did you sell it? If you sold it, where did the funds go and in which account? No, this is the vehicle that she bought and was the catalyst for us splitting up our assets. I don’t know what she did with, nor do I know what this amount is.

1. ***Red Ferrari***

We refer to our client’s Affidavit filed on 9 February 2022 at paragraphs 130 to 133 wherein our client discloses the following:

1. In 2020, our client sold the 2009 Ferrari California vehicle for $162,500.
2. The proceeds of its sale were deposited into his Commonwealth Bank Account ending #7500.
3. Approximately $133,300 of those funds were used to pay for joint legal expenses in relation to the Bloomingville Hong Kong v CRB Investment Holdings Pty Ltd & Ords matter.
4. Approximately $2,625 of those funds were used to pay for legal counsel in the Domestic Waterfront License legal dispute matter.
5. ***Horse: Plymouth Chubb***

We refer to our correspondence dated 6 May 2022 wherein our client disclosed a document prepared by himself titled ‘GS Benson & SK Hegyi Standardbred racing and breeding’. This document highlights prizemoney received for the period 1 July 2021 to 31 March 2022 for Plymouth Chubb, Dublin Chubb and Mangana Joe..

We refer to our client’s Affidavit filed on 9 February 2022 at paragraphs 33 to 37 wherein our client disclosed that Plymouth Chubb was seriously injured in January 2022 and his future racing career is very doubtful.

Your inference that our client has not provided any disclosure in relation to same is incorrect.

Gary, are there any purchase/sale receipts or ownerships documents to disclose for each of these? No horses have been purchased. Steven and I have bred them all. A 2/3rds interest in Dublin Chubb was recently sold and I may have some paperwork on this in Sydney. Steven and I each retained a 1/6th interest in this horse. Ownership is recorded in the HRA (Harness Racing Australia) database.

1. ***Horse: Dublin Chubb***

We note that this is a standardbred referred to in the paragraph immediately above.

1. ***Horse: Garston Girl***

We note that this is a standardbred broodmare.

1. ***Betfair Dogs***

We note that on 6 May 2022, our client disclosed copies of account activity on ukdogs, sagallops and sport4 for the period 1 January 2019 to 18 April 2022. We further refer to our correspondence dated 9 May 2022 wherein our client disclosed his interest in each account.

Your inference that our client has not provided any disclosure in relation to same is incorrect.

1. ***GK Investments***

We again refer to our correspondence dated 6 May 2022 wherein our client disclosed bank statements for the Commonwealth Bank GK Investments account ending **8534** for the period 14 June 2014 to 30 April 2022.

We again note that your inference in your letter that our client has not provided disclosure in relation to same is incorrect.

1. ***GK Investment Shares - $247,128***

Again, we refer to our correspondence dated 6 May 2022, noting that our client has provided bank statements for the GK Investments bank account ending 8534 as mentioned at 7 (n) above.

1. ***$14,466 USD Cash***

This request for particulars is incredibly vague. It does not specify which USD Cash you are referring to. Please provide particulars as to this specified amount of USD Cash so that we may obtain instructions from our client.

We note that in our correspondence dated 6 May 2022 we requested that you particularise what this request is in relation to, yet we have received no request for particulars and have yet again received a request in the same vague fashion.

1. ***2,020 Euros Cash***

We refer to our correspondence dated 6 May 2022 wherein our office advised you that we are instructed that our client sold 2,020 Euros to a friend for AUD$3,200.

1. ***Stamp Collection***

We refer to our correspondence dated 6 May 2022 wherein our office advised you that we are instructed that the stamp collection was affected by mould and holds no value.

1. ***Coin Collection***

We refer to our correspondence dated 6 May 2022 wherein our office advised you that we are instructed that our client does not have a coin collection.

We further note that Orders were made on 21 June 2022 and in particular Order 2 wherein your client has been ordered to make full and frank disclosure for the specified items listed therein by no later than 28 June 2022.

We note that to date, we have not received any disclosure from your client despite orders for same being made on three separate occasions by the Court on 9 February 2022, 9 May 2022 and 21 June 2022.

Noting the duplicitous nature of your correspondence, your client’s ongoing failure to provide disclosure, and the expense that our client has had to bear in responding to such correspondence, we will be relying on this correspondence and our previous correspondence as to the question of costs.

We await your client’s disclosure on an urgent basis in accordance with the Orders made to date.

Yours faithfully

<<IF (Signature) Equal (Cassandra) THEN>>



**Cassandra Kalpaxis**

Principal & Director

Kalpaxis Legal

cassandra@kalpaxislegal.com.au <<ELSE>><<IF (Signature) Equal (Clare) THEN>>

**Clare Jobson**

Senior Consultant

Kalpaxis Legal

clare@kalpaxislegal.com.au <<ELSE>><<IF (Signature) Equal (Bryanne) THEN>>

****

**Bryanne Vimpani**

Associate

Kalpaxis Legal

bryanne@kalpaxislegal.com.au<<ELSE>><<IF (Signature) Equal (Heela) THEN>>

**Heela Khatiz**

Associate

Kalpaxis Legal

heela@kalpaxislegal.com.au <<ELSE>><<IF (Signature) Equal (Niloufar) THEN>>

**A picture containing antenna, insect

Description automatically generated**

**Niloufar Hariri**

Lawyer

Kalpaxis Legal

niloufar@kalpaxislegal.com.au <<ELSE>>False<<END IF>><<END IF>><<END IF>><<END IF>><<END IF>>