

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *Holmes v. Matkovich*, 2007 YKSC 15

Date: 20070330
S.C. No. 06-D3856
Registry: Whitehorse

Between:

KATHLEEN HELEN HOLMES

Petitioner

And

VERNON CYRIL MATKOVICH

Respondent

Before: Mr. Justice R.S. Veale

Appearances:

Debbie Hoffman

Counsel for the petitioner
No one appearing for the respondent

REASONS FOR JUDGMENT

INTRODUCTION

[1] This divorce trial has proceeded on an uncontested basis by court order.

Ms. Holmes and a business evaluator were the only witnesses. Ms. Holmes seeks a joint custody order for the child of the marriage, child support, and spousal support under the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.). She also seeks an unequal division of family assets under the *Family Property and Support Act*, R.S.Y. 2002, c. 83. She claims a 100% interest in the farm property and equipment and a 50% interest in the mining assets which include quartz and placer claims and Mr. Matkovich's 50% interest in

19651 Yukon Inc., a corporation that owns and operates heavy equipment for the mining industry. The corporation also owns mining claims.

MR. MATKOVICH'S FAILURE TO DISCLOSE

[2] The trial has proceeded on an uncontested basis because of Mr. Matkovich's failure to disclose his financial assets in a reasonable manner. This failure is the subject of two previous decisions in this case: *Holmes v. Matkovich*, 2007 YKSC 1 and *Holmes v. Matkovich*, 2007 YKSC 05.

[3] To summarize these decisions, counsel for Ms. Holmes received no financial documentation after written requests to both Mr. Matkovich and his corporate counsel, commencing January 2006. Mr. Matkovich's corporate counsel cooperated throughout but received very little cooperation from her client. After a court application on July 18, 2006, precipitated by Mr. Matkovich blocking access to the family farm with heavy equipment, the Court ordered Mr. Matkovich to file and deliver a complete Financial Statement by August 3, 2006. Mr. Matkovich did not file a Financial Statement. At a pre-trial conference on October 5, 2006, the Court ordered Mr. Matkovich to file his Financial Statement by October 20, 2006, and set a hearing date of January 29, 2007, at the request of counsel for Ms. Holmes.

[4] On October 20, 2006, Mr. Matkovich filed an incomplete Financial Statement that did not contain any information on 19651 Yukon Inc., his placer mining claims, his mining equipment, recreation equipment or his gun and ivory collections.

[5] On December 13, 2006, counsel for Ms. Holmes applied to have Mr. Matkovich's Answer and Counter-Petition struck. The Court ordered Mr. Matkovich to file a complete Financial Statement, his List of Documents and the documents themselves. The order

required Mr. Matkovich to pay the legal fees and disbursements of Ms. Holmes since the preparation for the July 18, 2006 application. It specified that an application for contempt and to strike his Answer and Counter-Petition was set for January 8, 2007. Although Mr. Matkovich's corporate counsel indicated that trial counsel would be retained, no trial counsel has ever appeared.

[6] Mr. Matkovich responded by filing a List of Documents consisting of 63 documents. He also filed an unsworn Amended Financial Statement attached as an exhibit to an affidavit of his corporate counsel. He failed to pay the costs of Ms. Holmes in the approximate amount of \$14,353.

[7] I concluded that his List of Documents and unsworn Financial Statement were inadequate disclosure and, aside from being in contempt of court, deprived Ms. Holmes of a fair trial. I ordered that his Answer and Counter-Petition be struck and the hearing proceed at the request of Ms. Holmes, on an undefended basis. I ordered that funds from the sale of a Dodge truck be applied to the outstanding costs order and the balance be held in the trust account of counsel for Ms. Holmes.

BACKGROUND

[8] Ms. Holmes is 48 years old and Mr. Matkovich is 45 years old. They have lived together since approximately 1987. They married on January 11, 2000, and separated in December 2005. They have one child who is 16 years old.

[9] Ms. Holmes met Mr. Matkovich when she was 29 years old. She had worked as a fire lookout person in Alberta for two seasons, taken courses at beauty school and worked at various deli sandwich jobs.

[10] They met in Peace River, Alberta, but shortly after falling in love, in 1985, they moved to the Yukon. Life was difficult for them in the early years of their relationship. Ms. Holmes had to come to grips with her drinking and smoking. They separated for a time and she attended the Crossroads Treatment Centre in Whitehorse. Her treatment was successful. She describes herself as a recovering alcoholic and they reconciled for many years until their separation in December 2005.

[11] In 1988, they lived in a bus behind an RV repair business where he worked. She became pregnant in November while they lived in the bus. Their son Lucas was born on November 24, 1990.

[12] In the early 1990's, she borrowed \$10,000 from her mother so they could buy a cabin at Lake Laberge, outside Whitehorse. Life was difficult as there was no running water and very little money. Her son was born prematurely and she had to move into town. Mr. Matkovich apparently spent some time in jail during this period.

[13] They decided to move to the Dawson City area to try the mining business. Initially, it was difficult as they lived in the bus at Montana Creek with the assistance of a generator. It was a subsistence lifestyle but he enjoyed mining and prospecting. She worked at home raising their son and providing high calorie meals for him.

THE FAMILY FARM

[14] In 1994, they became interested in a hay farm on the Indian River, south of Dawson City, for a price of \$90,000. They were able to finance the purchase as her mother provided the down payment of \$1,000 and \$9,000 to close the purchase on October 1, 1994. A total of \$20,000 was paid by her mother before she died in 1996. The balance of the purchase price came from her mother's estate. Her mother's estate,

which was almost \$1 million, provided the funds to buy the Indian River farm which was in joint names and a D8 Cat in Mr. Matkovich's name.

[15] They initially lived in a blacksmith shop at the farm. Ms. Holmes and Mr. Matkovich worked together to saw the logs to build a shop. During this period, 1994 to 1996, Mr. Matkovich farmed and worked for placer miners. Ms. Holmes worked in the home as well as on the farm. There was still no running water and raising a family was strenuous work. She split wood, skinned moose, hauled water, gardened, looked after livestock and cooked and maintained the household. They were a partnership. Ms. Holmes also provided a steady stream of income from her inheritance while Mr. Matkovich learned the gold mining business.

[16] In 1996, the shop was completed and they moved into the back of it where Ms. Holmes and Mr. Matkovich lived with their son as well as other family members from time to time. They lived in the back of the shop until a log home was completed. Ms. Holmes never resided in the log home as she began to have health problems and in 2005, she spent most of her time in Whitehorse where medical expertise was more accessible. In December 2005, she and Mr. Matkovich took his mother to Belize for a holiday. He apparently left her in Belize with his mother.

[17] Lucas is now 16 years-old. He spent the summer of 2006 working for Klondike Star. He now resides in Whitehorse with Ms. Holmes. He has been home-schooled in the past but is now finishing Grade 9. There are some communication difficulties between the parents which may affect Lucas.

[18] The Indian River hay farm consists of 240 acres, a new log house, a shop and living quarters, a greenhouse and satellite dish and gardens. It is located about 40

kilometres south of Dawson City, in a gold mining area. Ms. Holmes presented photographs depicting each building, the equipment and the cultivation. The farm was extensive and in excellent shape before Ms. Holmes left in 2005 for health reasons. After her departure, the farm fell into a state of disrepair which was very disturbing to Ms. Holmes after all the work she put into it. Mr. Matkovich initially prevented her access by placing a D8 Cat in the driveway. The Court ordered the Cat to be removed on July 18, 2006, which was when Ms. Holmes discovered the state of disrepair that occurred while Mr. Matkovich was looking after the farm.

[19] There is also a blacksmith shop, goat shed, storage room and small cabin. There are several old vehicles, a tractor and farm equipment, a Nodwell drill and generators. There are valuable lathes, a drill press and a lycoming aircraft engine. She acknowledges that she has no use for the lathes, drill press and lycoming engine. I assume she also has no use for the Nodwell drill. She does need the tractor and farm equipment to maintain the farm or to assist in selling it as a going concern.

[20] There is a further matter regarding the farm. Mr. Matkovich appears to have staked some placer and quartz claims over the farm property. No evidence was presented as to the extent of the claims staked on the titled farm property. In August 2006, when Ms. Holmes was able to access the farm property, she discovered that a large double lane, gravelled access road had been built on the property to permit drilling on the placer claims. She is not certain where the drilling is on the farm property but she is certain the access road is on the property. She never consented to the construction of the access road on the farm.

MS. HOLMES INCOME AND HEALTH

[21] As indicated, Ms. Holmes inherited a substantial estate from her mother who died in 1996. This inheritance provided the entire purchase price of \$90,000 plus \$8,400 in interest to buy the farm. The last payment was made in October 1998.

[22] She also received an annual income from a trust fund created by her mother. The fund initially amounted to \$640,000 and she receives a declining amount each year as the capital sum is depleted. Between 2000 and 2005, she has received the following amounts:

2000: \$72,842.91 from capital;
2001: \$21,865.84 from income; \$34,113.06 from capital;
2002: \$14,881.70 from income; \$30,716.98 from capital;
2003: \$11,231.46 from income; \$33,018.88 from capital;
2004: \$10,504.01 from income; \$32,349.93 from capital;
2005: \$8,392.75 from income; \$36,125.54 from capital.

She stated that she received \$44,000 in 2006 and she expects to receive a declining amount each year until 2016 when she receives her last payment of \$30,000.

[23] She has always used these funds to support the family and the farm so that Mr. Matkovich could pursue mining and prospecting ventures. For example, she and Mr. Matkovich purchased a D8 Caterpillar valued at \$50,000 and a 2004 Dodge truck for \$36,380. I ordered the truck to be sold for \$29,500, a transaction unilaterally arranged by Mr. Matkovich. Ms. Holmes agreed to sell Mr. Matkovich her half interest in the D8 Cat in June 2006 for \$25,000. She also loaned \$10,000 to Mr. Matkovich's sister in 2001. It

remains unpaid. She has always worked on the farm and in the home. Ms. Holmes has never worked outside the farm or family home and relies entirely on her trust income.

[24] In the early years of the relationship, her health was good. However, she has since developed serious health issues. She has suffered from depression since the early 1990's. It was not diagnosed until 1996. She has been on medication since the diagnosis. While she enjoyed many aspects of her farm lifestyle, it has taken a toll. She has tendonitis in her forearms and bursitis in her shoulder. She had a hysterectomy in 2003 and was on morphine for two months because of painful tumours.

[25] She was diagnosed with hepatitis C in 1996, which has exacerbated her depression. She has significant liver disease. Her hepatitis C will remain untreated until she recovers from the trauma of the divorce.

[26] Her medical condition is supported by medical reports. The recommended treatment for her hepatitis C requires her to be free of alcohol so she will need treatment for her alcohol problem before she embarks on the hepatitis C treatment. The latter has many difficult side effects. Ms. Holmes also smokes. In 2005, she began to have chest pains and moved to Whitehorse so she could get treatment for all her health problems. She states that she and Mr. Matkovich were not separated at that time; rather, the move was motivated by the need for medical care. To avoid hotel costs, she purchased a small trailer for \$24,500. This is where she presently resides.

MR. MATKOVICH'S INCOME

[27] Mr. Matkovich has been the beneficiary of Ms. Holmes' trust fund and inheritance but he has also been successful in the prospecting, gold mining and heavy equipment rental business. He has contributed labour and equipment to the farm property.

[28] Ms. Holmes states that he did not earn more than \$30,000 a year until he became successful in gold mining and prospecting. However, he is a welder, fabricator and mechanic, all valuable skills in the mining business.

[29] Mr. Matkovich has been mining and prospecting with his partner, Tom Morgan, for many years. It has been a difficult business but has now begun to pay off. In 2004, they both received the Prospector of the Year award.

[30] They incorporated 19651 Yukon Inc. some time in 1999. Their chartered accountant has attempted to prepare draft financial statements but is unable to do so with accuracy because of the lack of banking information. Some of the information in 2002 came from Ms. Holmes who was record keeping at the time. While the supporting information cannot be verified without the co-operation of Mr. Matkovich, it does reveal some revenue trends:

2001:	\$8, 283
2002:	\$21,293
2003:	\$58,446
2004:	\$63,779
2005:	\$271,031
2006:	\$179,109

[31] Mr. Matkovich, Tom Morgan and 19651 Yukon Inc. have two joint venture agreements with Klondike Star Mineral Corporation and one with Klondike Gold Corporation. 19651 Yukon Inc. also has an equipment lease agreement with Klondike Star.

[32] Clark Evaluation Services Ltd. filed a report estimating the fair market value of Mr. Matkovich's 50% shareholding in 19651 Yukon Inc. to be \$102,000. Douglas Welsh, a chartered business evaluator, was unable to express a formal valuation opinion because of the lack of information. For example, there is no formal appraisal of the equipment consisting of the Nodwell drill, an excavator and a D6 Caterpillar and it appears that some equipment is not listed. There is also no evaluation of the mining claims owned by 19651 Yukon Inc.

[33] The difficulty presented by the lack of information from Mr. Matkovich cannot be underestimated. Two of the agreements, the Joint Venture Agreement with Klondike Star Mineral Corporation dated June 28, 2006, and the Indian River Property dated December 2, 2004, provide for a net smelter return to Mr. Matkovich that could provide significant income to him. There is no evidence to establish a value of the joint ventures.

[34] Mr. Matkovich also works for Klondike Star and his 2006 T4 income is for \$91,000. This is consistent with the Financial Statement he filed on October 20, 2006, but it does not reflect the \$40,000 in contract income in 2006 from 19651 Yukon Inc. He also received rental income from the D8 Caterpillar, which was originally owned jointly until his purchase of Ms. Holmes' interest in June 2006. The D8 Caterpillar earns \$8,750 a month gross and it should net \$70,000 a year, so I will impute that as additional income. The result is an annual income for Mr. Matkovich of \$211,000 in 2006.

[35] Mr. Matkovich has also staked a large number of placer and quartz mining claims in his personal name. Those claims are not part of the evaluation of the fair market value of Mr. Matkovich's shares in 19651 Yukon Inc. A mining recorder claim search indicates

approximately 50 quartz claims. It is not possible to place an accurate value on these claims without the cooperation of Mr. Matkovich.

[36] Mr. Matkovich is also the registered owner of a lesser number of quartz claims, six of which are referred to as Farm 1 – 6 which have been kept out of the mining agreements referred to. I also assume that these are staked on the family farm.

Mr. Matkovich is also a 25% owner in at least 87 quartz claims. No value has been placed on these assets.

[37] Mr. Matkovich also has a collection of 9 antique guns that Ms. Holmes values at \$5,000 to \$7,000. He also has an ivory collection from his gold mining that could have significant value.

ISSUES

[38] There are a number of issues to address:

- Issue 1: Should there be a joint custody order for the child, and child support paid to Ms. Holmes?
- Issue 2: Should Ms. Holmes be granted a 100% interest in the Indian River Farm?
- Issue 3: Should Ms. Holmes receive spousal support?
- Issue 4: Should Ms. Holmes receive an interest in the mining assets?
- Issue 5: How should the personal effects be divided?

DECISION

Issue 1: Should there be a joint custody order for the child, and child support paid to Ms. Holmes?

[39] I have granted a divorce judgment following the trial and made a joint custody order for Lucas, whose primary residence should be with Ms. Holmes. There are some communication difficulties between Ms. Holmes and Mr. Matkovich over the care of Lucas but it appears that he will spend the winter in Whitehorse attending school. He may work in a mining camp in the summer.

[40] Mr. Matkovich has not paid any child support except the court-ordered amount of \$1,164 per month commencing December 1, 2006, based on an earlier income estimate of \$130,000 for Mr. Matkovich. This has been paid from the proceeds of the sale of the 2004 Dodge truck.

[41] I have imputed Mr. Matkovich's income for 2006 to be \$211,000 and accordingly the child support should be increased to \$1,555 commencing February 1, 2007. I also order Mr. Matkovich to place his son on any health or dental insurance plan available to him from employment, or alternatively, to pay for his health and dental expenses.

Issue 2: Should Ms. Holmes be granted a 100% interest in the Indian River Farm?

[42] The *Family Property and Support Act*, cited above, provides the following direction when one spouse applies for unequal division of family assets:

“Unequal division

13 The Supreme Court may make a division of family assets resulting in shares that are not equal if the Supreme Court is of the

opinion that a division of the family assets in equal shares would be inequitable, having regard to

- (a) any agreement other than a marriage contract or a separation agreement;
- (b) the duration of the period of cohabitation under the marriage;
- (c) the duration of the period during which the spouses have lived separate and apart;
- (d) the date when property was acquired;
- (e) the extent to which property was acquired by one spouse by inheritance or gift;
- (f) any other circumstance relating to the acquisition, disposition, preservation, maintenance, improvement, or use of property rendering it inequitable for the division of family assets to be in equal shares;
- (g) the date of valuation of family assets.”

[43] In the context of this marriage, the relevant provisions are ss. 13(e) and (f).

Ms. Holmes provided all the funds from her mother’s estate to make the purchase of the farm possible. Over a period of 4 years, from 1994 to 1998, Ms. Holmes paid \$98,400 to purchase the farm.

[44] Clearly, both spouses contributed to the establishment of the farm in terms of personal labour. There is no doubt that Ms. Holmes contributed her equal share and more to the preservation and maintenance of the farm. This is confirmed by the good shape the farm was in before her departure in 2005, compared to its present state of disrepair.

[45] It is also significant that it is the only major asset that she can benefit from, either through maintaining it or selling it if her health continues to deteriorate.

[46] I order that Ms. Holmes be granted a 100% interest in the farm. The farm and equipment should be valued at \$225,000 according to Ms. Holmes.

Issue 3: Should Ms. Holmes receive spousal support?

[47] Section 15.2(4) of the *Divorce Act*, cited above, requires the court on marriage breakdown to take into consideration the means, needs and other circumstances of each spouse, including:

- “(a) the length of time the spouses cohabited;
- (b) the functions performed by each spouse during cohabitation; and
- (c) any order, agreement or arrangement relating to support of either spouse.”

[48] Section 15.2(6) states that a spousal support order should:

- “(a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
- (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
- (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
- (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.”

[49] In the case of *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420, the Supreme Court of

Canada summarized the conceptual bases for entitlement to support as follows:

“In summary, the statutes and the case law suggest three conceptual bases for entitlement to spousal support: (1) compensatory, (2) contractual, and (3) non-compensatory. Marriage, as this Court held in *Moge* (at p. 870), is a “joint endeavour”, a socio-economic partnership. That is the

starting position. Support agreements are important (although not necessarily decisive), and so is the idea that spouses should be compensated on marriage breakdown for losses and hardships caused by the marriage. Indeed, a review of cases suggests that in most circumstances compensation now serves as the main reason for support. However, contract and compensation are not the only sources of a support obligation. The obligation may alternatively arise out of the marriage relationship itself. Where a spouse achieves economic self-sufficiency on the basis of his or her own efforts, or on an award of compensatory support, the obligation founded on the marriage relationship itself lies dormant. But where need is established that is not met on a compensatory or contractual basis, the fundamental marital obligation may play a vital role. Absent negating factors, it is available, in appropriate circumstances, to provide just support.”

[50] The court stated, at para. 46, that following the decision in *Moge v. Moge*, [1992] 3 S.C.R. 813, there is an “increasing willingness to order support for ill and disabled spouses”.

[51] In the case of *Yemchuck v. Yemchuk*, 2005 BCCA 406, the British Columbia Court of Appeal awarded spousal support to a retired husband who had an annual income of \$37,632 from his wife who was employed full time with an annual income of \$75,000. The parties were married for 35 years. Prowse J.A. stated at paragraph 50:

“While equalization of the standards of living of the parties is not a stated objective of spousal support, in long-term marriages in which the parties have approached their roles as a partnership where each contributed their various resources, both economic and non-economic, to the relationship, equality of standard of living (which is not the same as equality of income) may well be the just result. ...”

[52] Applying these principles to the case at bar, both spouses have contributed to the marriage over a period of almost 20 years. I am taking into account the substantial time the parties were together before they formalized their marriage in 2000.

[53] Both spouses contributed differently. Ms. Holmes kept the family home together and raised their son while Mr. Matkovich provided labour around the home and farm while he prospected and mined. Ms. Holmes applied her labour and inheritance income to the farm which enabled Mr. Matkovich to make investments in prospecting and mining that would pay off in the long term.

[54] In my view, the parties were a marital partnership and a business partnership. They both worked for the family and their joint endeavours.

[55] On the breakdown of the marriage, Ms. Holmes has very serious health problems that were already evident during the marriage. Her hepatitis C, smoking, depression and recovering alcoholic status were no secrets and there is no doubt that she worked very hard in isolated circumstances without the usual amenities. While the lack of amenities was by choice, it eventually became a burden and she had to leave the farm to seek medical treatment, particularly for her hepatitis C and liver damage.

[56] I conclude that spousal support for Ms. Holmes is not only just but required to relieve her from economic hardship arising out of the marriage. It is simply not practicable to require economic self-sufficiency on her part after this marriage breakdown.

[57] Counsel for Ms. Holmes has provided a spousal guideline calculation based upon the Spousal Support Advisory Guidelines. Imputing an income of \$211,000 for Mr. Matkovich and an income of \$44,000 for Ms. Homes, and taking into account the child support I have ordered, the range of spousal support is from \$3,753 to \$5,013 a month.

[58] Because I have awarded Ms. Holmes 100% of the family farm, it would not be appropriate to award her the high range of spousal support which would result in her having more net disposable income than Mr. Matkovich. Yet, it must be recognized that Mr. Matkovich had the benefit of her full estate income and her full time work at the family farm during the marriage. I order that Mr. Matkovich pay \$4,000 per month spousal support to Ms. Holmes commencing February 1, 2007. This does not result in exact equality of income for Ms. Holmes but it provides for some equality in standard of living.

Issue 4: Should Ms. Holmes receive an interest in the mining assets?

[59] I have previously indicated that this was a marital and a business partnership. To that extent, the mining and business assets of Mr. Matkovich are family assets in the same way that the farm business was a family asset. Mr. Matkovich did not arrange his mining assets in that way, suggesting that he was prepared to have a partnership in the family farm but not in the mining assets that he was able to accumulate during the marriage.

[60] To the extent that the mining assets may be characterized as non-family assets, reference must be made to ss. 5, 13 (previously set out) and 14 of the *Family Property and Support Act*, cited above:

“Non-family assets

14 The Supreme Court may make a division of any property owned by one spouse or both spouses that is not a family asset if

(a) a spouse has unreasonably impoverished the family assets;
or

(b) the result of a division of the family assets would be inequitable in all the circumstances, having regard to,

(i) the considerations set out in paragraphs 13(a) to (f),
and

(ii) the effect of the assumption by one spouse of any of the responsibilities set out in section 5 on the ability of the other spouse to acquire, manage, maintain, operate or improve property that is not a family asset.

Purpose of this Part

5 The purpose of this Part is to recognize that the law takes insufficient notice of the facts

(a) that child care, household management and financial provision are the joint responsibilities of the spouses, and

(b) that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities,

and to rectify this deficiency by entitling each spouse to an equal division of family assets on marriage breakdown, subject to the equitable considerations set out in sections 13 and 14.

[61] These provisions of the *Act* recognize that child care and household management are as important to a family and marital relationship as the creation of non-family assets.

There is no suggestion that Mr. Matkovich has impoverished a family asset. But it is clear that Mr. Matkovich would not have been able to spend the years he did developing the mining assets without the financial contributions and work of Ms. Holmes for the family.

[62] I do not in any way wish to diminish the initiative and perseverance on the part of Mr. Matkovich to create the significant mining assets that he now has. But by the same token, it would not be fair to ignore the contribution that Ms. Holmes has made.

[63] With respect to the value of the mining assets, the valuation of Mr. Matkovich's shares in 19651 Yukon Inc. at \$102,000 is a low estimate of the value of the mining

assets. It does not take into account the value of the joint venture agreements or the value of quartz and placer claims of both Mr. Matkovich and the company.

[64] Taking all this into consideration along with the transfer of 100% of the farm to Ms. Holmes, I order that Mr. Matkovich pay a lump sum of \$50,000 to Ms. Holmes representing approximately 50% of Mr. Matkovich's share in 19651 Yukon Inc. The value of the placer and quartz claims is not known but the joint venture agreements suggest that they have considerable value. I award Ms. Holmes \$50,000 as compensation for her contribution to their acquisition. I recognize that this may be undervaluing these assets but it is compensated to some extent by Ms. Holmes being awarded the family farm. There are also some smaller assets that can be transferred to Ms. Holmes.

Issue 5: How should the personal effects be divided?

[65] There are a number of personal effects, shares and equipment to be divided.

[66] Ms. Holmes shall receive all her personal effects and furniture as well as the farm equipment. I order the Promithian shares and Air North shares in the name of Mr. Matkovich transferred to Ms. Holmes. This should cover the unpaid \$10,000 loan to Mr. Matkovich's sister. I order her gold wedding ring to be returned to her. I order that the trailer in Whitehorse and her car belong to her.

[67] I order the shop equipment and mining equipment belong to Mr. Matkovich. He shall be the sole owner of all his claims and his shares in 19651 Yukon Inc. and any personal interests that he has in the joint venture agreements upon his payment of \$100,000 to Ms. Holmes. He shall also receive his gun and ivory collections.

[68] Ms. Holmes shall have her costs from Mr. Matkovich on a special costs basis being the full recovery of her legal fees and disbursements. The balance of trust funds from the sale of the 2004 Dodge truck may be applied to these costs.

Veale J.