



*Eatons*

## Non-Disclosure Did Not Affect Settlement

In divorce proceedings, it is usual to make a full disclosure of assets and future financial prospects when agreeing the financial settlement. Failing to do so can cause a legal battle, as a recent case illustrates.

It involved a couple who had met at university and married. Both worked for a time, but the wife stopped working when the couple had children, who were aged 10 and 8 at the time of the divorce.

The husband was a stockbroker. Because of the nature of his earnings and the fact that the majority of the couple's assets were tied up in the family home, a clean break was not achievable. Neither the husband nor the wife had any material assets when they were married, so the question of whether assets were 'matrimonial' or 'non-matrimonial' assets did not arise.

The court therefore ordered the ex-husband to pay his ex-wife £75,000 per year, plus the children's school fees and extras, and gave the family home to her with the provision that if it were sold, 24 per cent of the gross sale proceeds would belong to her ex-husband.

Normally, that would have been the end of the story. In this case, however, within a fortnight of the financial provision order being made, the man left his employment for a new job which left him better off.

As a result of this, his ex-wife sought to have the order set aside, her main argument being that he had not disclosed that he was in negotiation for a new position that would make him materially better off. Had she known of it, she would not have agreed to the financial settlement.

The question for the court, therefore, was whether or not the ex-husband was under an obligation to disclose his negotiations. He admitted that he had not, but held that he was under no obligation to do so. He argued that the new job was not a 'done deal' and that the negotiations did not affect what he thought was a fair offer to his ex-wife. Furthermore, he considered that disclosure might have been harmful had the job offer not materialised.

**CONTINUED..**

### EATONS SOLICITORS

THE OLD LIBRARY,  
34 DARLEY STREET,  
BRADFORD,  
BD1 3LH.

T: 01274 728 327  
F: 01274 305 056

ASPECT COURT,  
47 PARK SQUARE,  
LEEDS,  
LS1 2NL.

T: 0113 246 0444  
F: 0113 394 4101

49-51 PEGHOLME,  
WHARFEBANK BUSINESS  
CENTRE, ILKLEY ROAD,  
OTLEY, LS21 3JP.

T: 08456 446 006  
F: 08456 446 005



*Eatons*

## Non-Disclosure Did Not Affect Settlement

In addition, he had originally offered her a percentage of his income (34 per cent up to £350,000 and 10 per cent of any excess). It was she who demanded a fixed sum.

The court ruled that the ex-husband had breached his duty to disclose material information. The question which then needed to be considered was whether the absence of full and frank disclosure led the court to make an order substantially different from that which it would otherwise have made. On this issue, the court ruled that the job offer had not affected the proposed financial settlement – there were still uncertainties in the contract. In addition, had the ex-husband stayed in his previous job, his earnings would also have risen and the difference between what he would have earned in his old job and his earnings in the new job were not substantial enough to set aside the original financial arrangements.

Says Liz Williams, Head of Family and Matrimonial Law, “To fail to make a full disclosure in such circumstances is a risky strategy, but in this case it did not backfire. Achieving a just result normally depends on sensible negotiation based on sound legal advice and experience. We can advise you on all family law matters.”

### EATONS SOLICITORS

THE OLD LIBRARY,  
34 DARLEY STREET,  
BRADFORD,  
BD1 3LH.

T: 01274 728 327  
F: 01274 305 056

ASPECT COURT,  
47 PARK SQUARE,  
LEEDS,  
LS1 2NL.

T: 0113 246 0444  
F: 0113 394 4101

49-51 PEGHOLME,  
WHARFEBANK BUSINESS  
CENTRE, ILKLEY ROAD,  
OTLEY, LS21 3JP.

T: 08456 446 006  
F: 08456 446 005