FAMILY LAW PROPERTYSETTLEMENT Contributions Long marriage Where there arethree children of the marriage Where the wife made a greater financialcontribution Where the husband made significant non-financialcontributions Where the husband is 67 years of age and is suffering fromthe effects of cancer Where the wife is 56 years of ageand has agreater earning capacity Superannuation. Evidence Act 1995 (Cth) s142(1). Family Law Act 1975 (Cth) ss 79, 75(2). Baglio & Baglio [2013] FamCA 105. Bevan & Bevan [2013] FamCAFC 116. Harper & Harper [2013] FamCA528. Mallet v Mallet (1984) 156 CLR605. Stanford & Stanford [2012] HCA 52; (2012) 247CLR 108. NHC & RCH [2004] FamCA 633; (2004) 32 Fam LR 518. Lovine & Connor& Anor (2012) FLC 93-515. M & M [1998] FamCA42. Cerini & Cerini [1998] FamCA 143. Omacini & Omacini[2005] FamCA 195; (2005) FLC 93-218. Kouper & Kouper (No 3) [2009] FamCA1080. Steinbrenner & Steinbrenner [2008] FamCAFC 193. Watson &Ling [2013] FamCA 57. APPLICANT: Mr Guntupalli RESPONDENT: Ms Parthasarathi FILENUMBER: BRC 743 of 2011 DATE DELIVERED: 21 February 2014 PLACE DELIVERED: Brisbane PLACE HEARD: Brisbane JUDGMENT OF: Hogan J HEARING DATE: 5 & 6 February 2014 REPRESENTATION COUNSEL FOR THE APPLICANT: Ms Carew QC SOLICITOR FOR THE APPLICANT: Barry Nilsson Lawyers COUNSEL FOR THE RESPONDENT: Mr Galloway SOLICITOR FOR THE RESPONDENT: Michael Lynch Family Lawyers ORDERS Thatwithin thirty (30) days from the date of orders being made in these terms, thewife shall do all acts and things and executeall documents necessary totransfer to the husband at the expense of the husband the whole of her right,title and interest in theproperty at B Street, Suburb C in the State ofQueensland, more particularly described as Lot ... on RP ..., County of ...,Parishof ..., Title Reference ... (the B Street property). Thatwithin thirty (30) days from the date of these orders, the wife do all acts andthings and execute all documents necessary totransfer to the husband at theexpense of the husband the whole of her right, title and interest in theproperty at D Street, SuburbE, in the State of Queensland more particularlydescribed as Lot ... on RP ..., Ward of ..., Parish of ..., (the D Streetproperty). Thatas from the date of these orders, the wife indemnify and keep indemnified thehusband with respect to any mortgages secured overthe B Street property and/orthe D Street property, and, that within thirty (30) days of the date of thisorder,

the wife sign alldocuments and do all acts and things necessary torefinance the mortgage debts secured over the said properties such that they aresecured over property which, as a result of these orders, is to be retained bythe wife in the wifes sole name. Thatwithin thirty (30) days of the date of these orders, the husband shall do allacts and things and execute all documents necessaryto transfer to the wife atthe expense of the wife the whole of his right, title and interest in F Street,Suburb C in the Stateof Queensland more particularly described as Lot ... on RP..., County of ..., Parish of ..., Title Reference ... (the F Streetproperty). That,except as otherwise provided for, the husband is entitled to be the sole legaland beneficial owner of the following: hisinterest in the property at G Street, Suburb H; fundsin the Suncorp bank account no. ...00; fundsin Suncorp bank account no. ...80; fundsin Suncorp bank account no. ...08; hiscredit card liability for the Commonwealth Bank Card no. ...95; hisinterest in N Business and its bank accounts, plant and equipment; hisToyota Rav 4 motor vehicle; hisshareholdings with Suncorp, AMP and Wesfarmers; furniture,furnishings and effects in his possession; personaleffects and jewellery; hissuperannuation entitlements with Guntupalli Superannuation Fund; and hismember entitlements with the P Guntupalli Superannuation Fund (until such timeas those entitlements are rolled over into theGuntupalli SuperannuationFund). That,except as otherwise provided for, the wife is entitled to be the sole legal andbeneficial owner of the following: allfunds in all bank accounts held in her name; herprofessional practice and all associated entities; allreal property in her possession or ownership not otherwise referred to in theseorders, namely I Street, Suburb J, K Street, SuburbL and M Street, SuburbA; allmortgages in her name, including but not limited to the following mortgages: (i) mortgage#...500; (ii) mortgage#...404; (iii) mortgage#...909; and (iv) mortgage#...400; furniture,furnishings and effects in her possession; and theToyota Prado, registration ...; thewifes personal effects and jewellery; and anyshareholdings in the wifes name. That,pursuant to s 90MT(1)(a) of the Family Law Act 1975 (Cth) the amount of$554,575.79 is allocated as the base amount to be deducted from the interest ofthe wife in the P GuntupalliSuperannuation Fund (the superannuationfund) and the wife, a member of the superannuation fund and the husbandandthe wife, the trustees of the superannuation fund, do all acts and thingsand sign all documents and give

all consents so that whenevera splittablepayment becomes payable out of the interest of the wife in the superannuationfund the husband is entitled to be paidthe amount calculated in accordance withPart 6 of the Family Law (Superannuation) Regulations 2001 and there shall be acorresponding reduction in the entitlement of the wife to whom the splittablepayment would have been made butfor these orders. Thehusband and the wife, as trustees of the P Guntupalli Superannuation Fund, shalldo all acts and things and sign all such documentsas may be necessary to pay tothe husband the entitlement occurring as a consequence of paragraph 7 of thisOrder whenever the trusteesmake a splittable payment out of the wifesinterest in the P Guntupalli Superannuation Fund. Thatparagraph 7 of this Order have effect from the operative time and the operativetime for this Order is the date of this Order. Inthe event that either party refuses or neglects to do any act or sign anydocument required to be done or executed in compliancewith the provisions ofthese Orders, then, pursuant to s106A of the Family Law Act 1975 (Cth), aRegistrar of the Family Court of Australia at Brisbane is hereby appointed toexecute all deeds and documents in the nameof the defaulting party and do allacts and things necessary to give validity and operation to the said Order andthe affidavit ofthe solicitor for the non-defaulting party shall be sufficientevidence of such non-compliance. Inthe event that they have not already done so, forthwith upon the making of thisOrder the husband and the wife shall each do allacts and things and sign alldocuments required to rollover the husbands entire interest in the PGuntupalli SuperannuationFund, as at 30 June 2013, into the GuntupalliSuperannuation Fund, including, but not limited to, signing all and anywithdrawaldocuments required by any bank to effect a rollover of thosefunds. Forthwithupon the rollover of the husbands entire interest in the P GuntupalliSuperannuation Fund into the Guntupalli SuperannuationFund pursuant toparagraph 11 of this Order, the husband shall do all acts and things and signall documents required to resign astrustee of the P Guntupalli SuperannuationFund. The P Guntupalli Superannuation Fund shall bear the cost of thepreparation ofany documents involved in his resignation as trustee from the PGuntupalli Superannuation Fund. Withinthirty (30) days of the date of this Order, the wife must do all acts and thingsand sign all documents required to transferany tenancies associated with the BStreet and D Street properties into the sole name of the

husband such that thehusband becomesthe sole lessor of those properties and receives all rentalincome associated with such properties. IT IS NOTED thatpublication of this judgment by this Court under the pseudonym Guntupalli& Parthasarathi has been approved by the Chief Justice pursuant tos 121(9)(g) of the Family Law Act 1975 (Cth). FAMILY COURT OF AUSTRALIA AT FILE NUMBER:BRC 743 of 2011 Mr Guntupalli Applicant And Ms Parthasarathi Respondent REASONS FOR JUDGMENT Theparties voluntary separation some years ago has meant that they no longerenjoy the common use of property and superannuationin which their existinglegal and equitable interests were acquired during a lengthy cohabitation. Suchseparation has also broughtto an end any assumption that any adjustmentto those interests could be effected consensually as needed ordesired.[1] Bothparties contend and I accept that, in the circumstances, it is just andequitable within the meaning of s 79(2) of the Family Law Act 1975 (Cth)(the Act) that, pursuant to s 79(1) of the Act, orders alteringthe interests in property owned by each of them aremade.[2] Whilstagreeing that it is just and equitable that orders altering their interests inproperty are made, the parties are in conflictas to the terms of the orderswhich are appropriate to reflect properly those matters which, by s 79(4) of theAct, must be considered. Thehusband asserts that orders which would see him receive property andsuperannuation interests with a combined value representing57 per cent of thetotal value of the property and superannuation interests of the parties would bejust and equitable. It is saidthat such an outcome would follow the Courtreaching a conclusion of equality of contributions as at the date oftrial[3] and making a 7 per centadjustment, reflective of an assessment of the relevant matters referred to in s75(2) of the Act, in the husbands favour. Thewife asserts that orders which would see her receive property and superannuationinterests with a combined value representing60 per cent of the total value ofthe property and superannuation interests of the parties would be just andequitable. It is saidthat such an outcome would follow the Court assessingcontributions as at the date oftrial[4] at 65 per cent in her favourand affording a 5 per cent adjustment, reflective of an assessment of therelevant matters referredto in s 75(2) of the Act, to the husband. Counselfor the wife was at pains to emphasise that the position advanced by the wifedid not amount to a concession by her that,irrespective of the overalldetermination of

contributions, justice and equity required that a 5 per centadjustment be made in thehusbands favour. Rather, her position that a 5 per cent adjustment be made in the husbands favour when therelevant s 75(2) matters were considered was intrinsically linkedto her contention that the Court would be satisfied that the appropriateconsideration of contributions resulted in an assessment of 65 per cent in herfavour. That is, the wife did not concede that ifthe Courts conclusionin assessing contributions was other than 65 per cent in her favour, thereshould be a 5 per cent, orany, adjustment in the husbands favour whenrelevant s 75(2) matters were considered. Theparties commenced cohabitation in 1982. They married in December 1984. Adispute exists as to the date of separation. I considerthat the evidenceestablishes that the parties separated on 1 July 2008 when the husband initiallyleft the former matrimonial hometo live at the G Street property. The husbandhimself acknowledged that, following this, when he moved back to live in theformermatrimonial home, after returning from an overseas holiday with illness,he did so on the basis that the parties were separated underthe one roof. Thissituation continued until 19 September 2009 when the husband finally left theformer matrimonial home to returnto live in the G Street property. Theparties are largely agreed as to the items of property and superannuation thateach will receive. The practical consequence ofthe difference between them isthat: thehusband seeks the B Street and the D Street properties free of encumbrancewhilst the wife asserts that he should take them withdebt in an amount of$145,990.00; and thehusband seeks to receive, by way of superannuation splitting order, 50 per centof the wifes entitlement to superannuationin the P GuntupalliSuperannuation Fund whilst the wife opposes the making of any order splittingher entitlement to superannuationin that fund. The property of the parties and related issues Theparties do not dispute their existing legal interests in the property andsuperannuation interests. Neither party asserted theexistence of any equitableinterest in other property. Save for those matters particularised at items 22and 27 of the Table below,the parties are agreed about the values of theproperty and superannuationinterests.[5] Therefore, save forthose items and the consequent effect resolution of the dispute about theirvalue will have on the total valueof the property, I find the existinginterests of the parties in property of the parties and the value of the same asat the dateof

trial to be as follows: Item Ownership Description Wife Value Husband Value Husband G Street, Suburb H $360,000.00 $360,000.00 Wife B Street, Suburb C $435,000.00 $435,000.00 Wife D Street, Suburb E $380,000.00 $380,000.00 Wife K Street, Suburb L $320,000.00 $320,000.00 Wife I Street, Suburb J $340,000.00 $340,000.00 Wife M Street, Suburb A $490,000.00 $490,000.00 Joint F Street, Suburb C $610,000.00 $610,000.00 Husband Suncorp Account #...00 $14,231.77 $14,231.77 Husband Suncorp eOptions #...08 $10,602.88 $10,602.88 Husband CBA business premium #...07 $15,090.60 $15,090.60 Husband CBA business online Saver #...32 $14,539.51 $14,539.51 Wife Suncorp everyday options #...12 Wife Suncorp everyday options #...70 Wife CBA streamline #...07 $119,050.69 $119,050.69 Wife CBA Netbank Saver #...58 $13,012.57 $13,012.57 Husband AMP shares 1413 $5,892.00 $5,892.00 Husband Suncorp shares 931 $11,107.00 $11,107.00 Husband Wesfarmers shares 242 $9,970.00 $9,970.00 Wife AMP shares 991 $4,132.47 $4,132.47 Husband Toyota Rav 4 $14,000.00 $14,000.00 Wife Toyota Prado Wife Parthasarathi Pty Ltd $1,029,165.00[6] $1,034,666.20[7] Husband N Business Wife Loan owing to wife from Parthasarathi Pty Ltd as at 30/6/13 $9,951.00 $9,951.00 Wife Wifes legal fees Husband Husbands legal fees paid to date of trial Wife Withdrawals CBA streamline account #...07 $100,000.00 Wife Withdrawals Suncorp everyday options #...14 Gross assets $4,205,745.49[8] $4,311,246.69 Husband CBA gold awards card #...95 ($2,757.90) ($2,757.90) Wife CBA MasterCard #...50 Wife CBA platinum awards card #...14 Wife CBA Diamond awards card #...85 Wife CBA Diamonds award card #...89 (credit) $8,124.51 $8,124.51 Wife CBA home loan #...909 (K Street) ($145,990.00) ($145,990.00) Wife CBA home loan #...500 (D Street) ($247,572.00) ($247,572.00) Wife CBA home loan #...400 (M Street) ($520,150.00) ($520,150.00) Wife CBA home loan #...404 (D Street) ($415,010.00) ($415,010.00) Total liabilities ($1,323,355.39) ($1,323,355.39) Husband P Guntupalli Superannuation Fund as at 30 June 2013 $1,785,284.00 $1,785,284.00 Wife P Guntupalli Superannuation Fund as at 30 June 2013 $2,687,735.00 $2,687,735.00 Husband Guntupalli Superannuation Fund as at 30 June 2013 $190,067.00 $190,067.00 Wife SunSuper (as at 30 June 2013) $44,228.00 $44,228.00 Total Super $4,707,314.00 $4,707,314.00 Net All Assets $7,589,704.10[9] $7,695,205.30 Item 22 the value of Parthasarathi PtyLtd Itbecame apparent

during the course of submissions made by Counsel that, contraryto earlier understanding, the parties disagreedabout the value ofParthasarathi Pty Ltd (the company), the corporate entitythrough which the wife has historically operated her professionalpractice. Thereason for this difference of $5,501.20 in a pool of property witha total value of no less than $7,589,704.10 arisesfrom a difference in attitudetoward the agreed opinion[10] heldby the single expert[11] to theeffect that the value calculated for the company (as outlined in his reportdated 20 December 2013[12])understated the value of the wifes motor vehicle by approximately$5,000.00. Ido not accept the submission made by Counsel for the wife that I should notaccept the single experts opinion about thismatter. I arrive at thisconclusion noting that no challenge was mounted via cross examination of thesingle expert following theCourt being informed by Counsel for both parties ofthe matter outlined above. Consequently,I am persuaded that the value of the company is $1,034,666.20. Item 27 -the asserted add back Thehusband asserts that the Court should notionally add back an amount of$100,000.00 to the pool of property amenable to ordersto be made pursuant to s79 of the Act. This amount was withdrawn by the wife in the period from21 October 2012 to 11 November 2012. Counselfor the husband submitted that, absent the existence of particulars and/orcorroborating documents evidencing the manner inwhich such monies were spent,the Court would not accept the wifes explanation that such sums werespent on matters including but not limited to educationexpenses, holidays, food and generalliving.[13] It was submitted thatjustice and equity required the inclusion of such sum (albeit notionally) asproperty available for divisionbecause, without the wifes actions, thetotal value of the property at trial would be $100,000.00 more than it currentlyis. Counselfor the husband also submitted to the effect that the funds removed by the wifehad their genesis in, and were generated by,a family business towhich the husband had made significant non-financial contribution prior toseparation.[14] In essence, even ifthe funds were generated by the wife as a consequence of the exercise by her ofher earning capacity post separation,such earning capacity arose with theassistance of contributions made by the husband during cohabitation. Unsurprisingly,Counsel for the wife submitted that the Court should accept the wifesexplanation about the dissipation ofthe funds and that, in any event, as suchexpenditure

occurred no less than about four years after separation, it amountedto expenditureof the wifes post-separationearnings.[15] Counsel furthersubmitted that, as the notional adding back of property no longer in existenceis an exception rather than therule[16] the Court would not bepersuaded in the circumstances of this case to proceed in the manner advanced onbehalf of the husband. Whilstdelivered before Stanford, in Lovine & Connor and Anor(2012) FLC 93-515[17] theFull Court said, at [101][103]: Thejudicial act here was the determination of just and equitable property Orders inthe exercise of the discretionary jurisdictionconferred by s 79. Within theexercise of that overall discretion, when an issue of financial conductconveniently described generically as a notionaladd-back arises, it is notdetermined by the application of fixed legal rules. Guidelines have beenformulated over time in a numberof well-known authorities concerning issuessurrounding notional add-backs (see, for example, Omacini & Omacini[2005] FamCA 195; (2005) FLC 93-218; DJM & JLM [1998] FamCA 97; (1998) FLC 92-816; Townsend &Townsend [1994] FamCA 144; (1995) FLC 92-569; Kowaliw & Kowaliw (1981) FLC 91-092;Browne & Green [1999] FamCA 1483; (1999) FLC 92-873; Chorn & Hopkins [2004] FamCA 633; (2004)FLC 93-204; Cerini & Cerini [1998] FamCA 143; Polonius &York (supra)). Undoubtedlysuch guidelines promote uniformity of approach and diminish the risks ofinconsistency and capricious and arbitrary adjudication,but as the High Courtmade clear in Norbis & Norbis [1986] HCA 17; (1986) FLC 91-712(Norbis), such guidelines do not constitute binding rulesof law. Mason and Deane JJ said in Norbis at75,166: The nature of the issues which ariseunder sec 79 is such that there is either little or no scope for giving guidancein the form of binding rules of law. Understoodin this context, disposition of an issue concerning a potential notionaladd-back does not involve the application ofa fixed rule to the facts on whichits operation depends. Rather, the exercise is one of discretion within adiscretion. That is,a discretion as to the manner in which the issue ofnotional add-back is to be treated within the overarching discretion ofdeterminingjust and equitable orders under s 79. InWatson & Ling [2013] FamCA57[18], delivered afterStanford, Murphy J, sitting at first instance, said asfollows: [29] Where, but for the disposal of money or other propertyby one party, legal or equitable interests in it would have been partof thoseexisting at trial, it may be possible to assert, in the particular circumstancesof a case, that the

money or property isnevertheless to be considered as partof the existing legal or equitable interests of the disposing party (shamtransactions andcircumstances where it can be established that the property isheld, for example, on trust by another for the disposing party areexamples).The investigation of issues of that type might be seen to be part of theestablishment of the existing legal and equitableinterests at trial atask which the majority of the High Court in Stanford (at [37]) saidshould be the first step in considering, pursuant to s 79(2) (cf s90SM(3)), whether it is just and equitable to make an order. [30] In many other cases, for example those which come within the convenientrubrics of waste (see Kowaliw & Kowaliw (1981) FLC91-092) or premature distribution (see, for example,Townsend), legal and equitable title to the money or property will havepassed. It could not be said that the money or property is part oftheexisting legal or equitable interests of a party or the parties.The notion that such money or property shouldbe treated as a notionalasset or notional property appears to run contrary to thethrust of the decisionin Stanford: at issue is the consideration of twoseparate questions, the first of which is whether existing legal or equitableinterests should be altered. [31] Yet, of course, unilateral actions of the type described might very wellbe a consideration indeed, in an appropriatecase, an importantconsideration in deciding if any order should be made altering theexisting interests of a party or parties. [32] Where the court has determined that it is just and equitable to make anorder pursuant to s 79(2) or s 90SM(3) and there is clear evidence that oneparty has engaged in conduct and, but for that conduct, the legal and equitableinterests ofa party or the parties (or the value of those interests) would havebeen significantly greater, justice and equity may require recognitionof theunfairness inherent in those circumstances in the terms of the orders to bemade. [33] How might that be recognised? First, consistent with existing authority,it can be recognised pursuant to s 75(2)(o) (cf s 90SM(3)(r) (see, for example,Omacini & Omacini [2005] FamCA 195; (2005) FLC 93-218, Browne & Green [1999] FamCA 1483; (1999)FLC 92-873 and Cerini). Secondly, it might be contended that it might berecognised within the assessment of contributions. This Court has long eschewedthe notion of negative contributions (see, for example, Antmann& Antmann (1980) FLC 90-908). Nevertheless, it might be argued that thenon-dissipating party can be seen to have made a

disproportionallygreaterindirect contribution to the existing legal and equitable interests (forexample to their preservation) if it is established that,but for the otherpartys unilateral dissipation, those existing legal and equitableinterests would have been greater or hada greater value. [34] The assessment of the circumstances under discussion is, ultimately, amatter of discretion (see, for example, Cerini at [46] andTownsend at 81,654). Equally, however, authority dictates that it will bethe exception rather than the rule (Cerini at [46]) that adirect dollar adjustment equivalent to the amount of the alleged dissipation ofthe pool is made to the otherwiseentitlement of a party. It may be that aspectsof the erstwhile treatment of legal fees pre-Stanford (see, for example,Chorn & Hopkins [2004] FamCA 633; (2004) FLC 93-204) will require further considerationin an appropriate case. [35] Importantly, of course, as has been emphasised in many authoritiesincluding those cited above, not every dissipation by a partycan be seen toinvolve an affront to justice and equity; gain the circumstances of theindividual relationship must be assessed. InBevan & Bevan [2103] FamCAFC 116 theplurality[19] said, at[79]: We observe that notional property, which issometimes added back to a list of assets to account for theunilateral disposal of assets, is unlikely to constitute property of theparties to the marriage or either of them,and thus is not amenable toalteration under S 79. It is important to deal with such disposals carefully,recognising the assets no longer exist, but that the disposal of the formspartof the history of the marriage and potentially an important part. As thequestion does not arise here, we need say nothingmore on this topic, save tonote that s 79(4) and in particular s 75 (2) (o) gives ample scope to ensure ajust and equitable outcome when dealing with the unilateral disposal ofproperty. Inaddition, Finn J said, at [160]: These reminders that thejurisdiction under s 79 is a jurisdiction to alter individual interests in titleto property and that there is no community of property in this country,mightalso call into some question the current practices in relation to the treatmentof property which is no longer in existencebut which one party has had the useof (the so-called add backs), and perhaps also of the unsecuredliabilities ofone or both parties. It may well be that these matters shouldmore strictly be considered in making findings under s 79(4)(e)(i.e. s75(2)), orin an extreme case, when considering the question under s 79(2) as to whether itis just and equitable to make any order under s 79. But these questions do notarise in the

present case, and are thus for another day. Unsurprisinglygiven the view he expressed in Watson (supra), in Baglio &Baglio[20] Murphy J, indiscussing the parties agreement that money spent on legal fees should beadded back to the pool,said at [186]: In my view, therole of add backs or, more specifically, the concept ofnotional property in propertyproceedings may need to be revisitedin light of Stanford. The emphasis on the predominance of existinglegal and equitable interests raises concerns over the place ofnotional assets or a notional pool asa means ofdealing with a finding of inequity or injustice arising from the use by oneparty of property or funds which, but forthat use, would have been part of thelegal and equitable interests of the parties at trial. In that respect, I repeathere whatI said in Watson & Ling [2013] FamCA 57 at [27] [35]. InHarper & Harper [2013] FamCA 528 (delivered 19 July 2013) Macmillan Jstated at [63] and [64]: The clear statement of principle inStanford is that in order for the Court to determine whether it is justand equitable to make orders pursuant to s 79, it must first identify theexisting legal and equitable interests of the parties in the property. As MurphyJ said in Watson & Ling at paragraph 30, the concept ofnotional property appears to run contrary to the thrust ofthe decision in Stanford. Whilst justice and equity might requirerecognition of either the unfairness of the conduct of one of the parties, whicharguably would apply to both the Kowaliw type situations or where therehas been a premature distribution of property, as noted by Murphy J, thatconduct could be taken intoaccount pursuant to s 75(2)(o). It is not yet clear how add backs will be approached as a result ofStanford. ...It is quite possible that as a result of the decision inStanford there will be little place for add backs in the assessment theCourt must make of the parties legal and equitable interests.At the veryleast the decision in Stanford is likely to emphasise once again theexceptional nature of add backs. Iconsider that the overarching discretion of determining just andequitable orders between the parties can best bemet by declining to add-backnotionally the $100,000.00 removed by the wife. Consistent with what I considerto be the underlyingtheme of the decisions referred to above, with which Iagree, I intend to consider the issue of the $100,000.00 when consideringotherrelevant s 75(2) matters. Theconsequence of the findings about Items 22 and 27 in the Table at paragraph 9 isthat the value of the property of the parties(inclusive of superannuationinterests) as at the date of trial is $7,595,205.30. The s 79(4)

considerations Inconsidering the relevant matters mandated by s 79 of the Act, it must beremembered that: communityof ownership arising from marriage has no place in the commonlaw[21]; and thatthere is no presumption of equality of contribution between parties to amarriage, irrespective of the length of theirunion;[22]and theexercise of the discretion conferred must not proceed on an assumption that theparties interests in the property are orshould be different from thosedetermined by common law andequity.[23] Asfell from Counsel at the commencement of the hearing, this case involvesassertion and counter assertion: it is, very much, a proceedingin which theCourt is asked to assess evidence which may colloquially be described ashe says/she says. Because ofthe nature of the areas ofsubstantial disagreement namely, as to the extent or otherwise of eachpartys non-financialcontributions to the acquisition, conservation orimprovement of property and contributions to the welfare of the family and careof the children and the state of the evidence relied on by each party,the consideration of whose recounting to prefer takesplace in the absence ofcorroborating evidence. I am left to assess the evidence given by each of theparties and, where necessary,reach conclusions about the evidence that Iprefer. Inher affidavit filed 11 November 2013, the wife said, at [9] : Ourdaughters [S] and [R] are both currently attending University and are stillfinancially dependent on me. However,in her affidavit filed, on 18 November 2013, in reply to the husbandstrial affidavit, the wife said, at [8]: In June 2013 [R] decided todefer her ... studies and earn some money from working. From June 2013 [R]continues to be financiallydependent on me in as much my house is available toher and I continue to pay [Rs] private health cover. Thewife started working in a temporary capacity at two professional practices inOctober 2012. She worked three days per week ineach practice. Her evidenceabout her income[24] was either thatshe earned an estimated E$2,500.00/week before tax or that she earnedapproximately $3,500.00 per weekgross[25]. The documentary evidencereveals that: inthe financial year ended 30 June 2013 she received $56,361.00 as a result of herwork at Q Business: remembering that she did notcommence working there untilsometime in October 2012, this amounts to an average of about $,1657.00 beforetax per week; and inthe period from 20 December 2012 until 23 June 2013 she received $66,216.00 as aresult of her work at T Business (about no less than

$2,878.00 per weekbefore tax on average). Doingthe best that I can on the evidence, I consider it apparent that, in the periodfrom 20 December 2012 until 23 June 2013, thewifes gross average weeklyincome was in the vicinity of about $4,535.00 before tax. Even if thewifes obligationto remit GST is taken into account, her average weeklyincome was in the vicinity of about $4,000.00 before tax. Ialso consider it more likely than not that the wife attempted to restrict thehusbands understanding of the extent of herfinancial benefit from hertemporary work by asking that the practice for which she engaged in suchemployment refrain from depositingher remuneration into her bankaccount[26] as it was earned: thisresulted in substantial lump sum deposits being made: on 27June 2013 - $102,355.61; and on8 August 2013 - $38,644.00 and$30,366.00.[27] Asa result of the inconsistencies and the matters outlined in paragraphs [28]-[32] above, I have concluded that, where there aredifferences in the evidencegiven by the husband and the wife, I prefer the evidence given by the husbandunless otherwise indicated. Consideration of the contributionsof the parties Thehusband did not accept that the wife had cash savings in an amount of about$20,000.00 at the commencement of their cohabitationin 1982. The wife assertedthat she had saved such funds from her employment in Melbourne in the year priorto cohabitation. I amnot persuaded, on the balance ofprobabilities[28], that the wife hadaccumulated what was, at that time, a significant amount of money. In arrivingat this conclusion I take intoaccount the evidence as to her study prior tocommencement of cohabitation, that she supported herself financially during thisperiodand that, whilst she was employed in Melbourne for 12 months prior to thecommencement of cohabitation, she also had to meet herliving costs fromwhatever salary she received at that time. Itherefore conclude that, at the commencement of their 26 year cohabitation, theparties had little property of little value. Financialcontributions to acquisition, conservation or improvement of property Itis uncontroversial that, when considered overall, the wife made overwhelmingdirect financial contributions during the course ofcohabitation. However, theparties are in dispute as to the extent of financial contributions made by thehusband. Iaccept that between 1984 and 1987 the wife worked full time whilst the husbandcompleted a Masters degree. I also acceptthat during this period thehusband undertook work of a handyman nature and contributed the proceeds of thesame to the

support ofthe parties. Inthe period from 1987 until 1996 the parties three children were born. Thewife completed her studies and qualified as aprofessional. In this period thehusband operated a mobile professional practice from the G Street property, thenoccupied by theparties as their matrimonial home. I accept the husbandsevidence that he made direct financial contribution in the mannerhe asserts tothe G Street property. I accept that the husband made financial contributionsnecessary to support the family, as itwas then constituted, when the wife wasstudying for her degree. Inthe period from 1996, when the children were aged 10, 4 and 2 yearsrespectively, until 1998 the wife was employed in supervisedpractice. I acceptthat she worked very long hours during this period. I accept that both partiesapplied whatever income they earnedduring this period to the support of thefamily, including the acquisition of property. Itis not in dispute that the husband commenced working for the wifespractice in 1998. What is in dispute, however, is whetherhe simultaneouslymaintained his practice or, rather, focused entirely upon his role within thewifes practice. I considerit more likely than not that the partiesjointly determined that the husband would not pursue specialisation within hisprofession.I arrive at this conclusion in the context of each of the partieshaving previously undertaken significant periods of study (whichcan only havehad a restrictive impact on the income they earned at the time), that at thistime the parties had three children requiringtheir care and attention, therelatively modest return from the husbands practice and that the wife hadfinally reached theposition where she was able to open her own practice fromwhich it might have been expected that she would obtain a significant return.Iaccept that the wife told the husband that he could earn more from working forher practice than he could in his own practice. Thehusband was initially paid about $45,000.00 a year for the duties he performed.Over subsequent years, his level of remunerationgrew until he was paid$75,000.00 per year. I accept that this remuneration was applied generally tothe support of the family orto property of the parties available forconsideration in these proceedings. WhilstCounsel for the wife suggested to the husband that the sum paid to him by thewifes practice was disproportionate tothe tasks he performed, I considerthat the wife cannot resile from the decisions she made in the management of herpractice. Hersole determination to pay the husband a salary of $75,000.00 canonly have

reflected her decision that such sum appropriately remuneratedhim forthe tasks he was required to do. Any conclusion contrary to this can onlylogically lead to a further conclusion that, inorder to increase businessexpenses and, consequently tax deductions, the wife inappropriately determinedto pay the husband an amountgreater than that properly required to remuneratehim. It was not submitted that I should reach this conclusion. I accept that, inhis paid role within the wifes practice, the husband carried out thetasks he outlined in his affidavit. Counselfor the wife submitted that, in assessing the contributions made by each of theparties to the acquisition of property, theCourt should take into account andafford credit to the wife for the fact that, as a consequence ofthe manner in whichthe borrowings to fund the purchase of the various realproperties acquired during the period of cohabitation was undertaken namely, that the wife was sole borrower of such funds she exposedherself, to the exclusion of the husband, to full liabilityunder the terms ofthe mortgages executed as security for the borrowed funds. Ido not accept this submission because, whilst the wife was potentiallyexposed to greater liability than the husband as a consequence of being the onlyparty to the mortgages, she was not at any timecalled upon to make any greatercontribution than the husband as a consequence of the existence of themortgages. Contributions other than financial contributions toacquisition, conservation or improvement of property Thewife made only grudging concessions as to the extent of the husbandsnon-financial contribution to the acquisition, conservationor improvement ofproperty: for example, when asked whether she accepted that he had mowed andtrimmed hedges at some of the properties,her immediate answer was hewanted to. Such response demonstrates clearly and unequivocally thewifes positionthat the husband contributed very little during the courseof their 26 year cohabitation. Iaccept the husbands evidence that, because the wife was engaged inworking long hours, he: locatedsome properties subsequently purchased as investments; didmaintenance tasks in relation to at least some of the investmentproperties; oversawor supervised renovations to the properties (paid for by the wife with fundssourced from herpractice[29]); liaisedwith and engaged in applications to the local authority in order to obtain thenecessary permissions to enable the wife tooperate the practice from the MStreet premises. Iaccept that, because the wife was engaged for significant hours in obtainingprofessional

qualifications and in the operation ofher practice, the husbandmade the greater non-financial contributions to the acquisition, conservation orimprovement of property.I also accept that his contributions in this regardpermitted the wife to work the hours that she did in the practice withoutdiversion. Contribution to the welfare of the family including in the capacity ofhomemaker or parent Thewifes Counsel submitted, and I accept, that the wife worked very hard forremuneration over a long period of time. Thehusband readily concedes this. Infact, he relies upon her hard work as the foundation for the submission that,consequently, heperformed the majority of homemaking and parenting tasks duringcohabitation. He does not assert that the wife made no contributionto thewelfare of the family or care of the children: rather, he emphasises that suchcontributions were limited by the extent ofher working in her practice 6 to6 days per week. Iaccept that, from when the wife was employed in supervised practice, the husbanddropped the children to day care, was involvedin feeding them, changing themand performed other parenting tasks. I consider that, as a consequence of thewifes long workinghours, it is more likely than not that the husbandperformed the majority of household and parenting duties. Iaccept the husbands evidence that, because the wife worked very longhours in operating the practice, he undertook the primarycare of the children.I accept that, in addition to the matters referred to above, he took thechildren to extra-curricular activitiesand otherwise cared for them duringtimes when the extent of the wifes work commitments precluded her fromundertaking suchtasks. Iam therefore persuaded on the evidence that, from 1993 when the wife commencedworking in supervised practice, which necessitatedher spending significantperiods of time away from the home, the husband undertook the majority ofhomemaker and parenting tasks.I consider that this permitted the wife to devoteherself significantly to the development of her practice and freed her from themajority of the homemaker and parenting responsibilities in a way whichpermitted her to pursue her career without significant interruption:Ferraro& Ferraro [1992] Fam CA 64; (1993) FLC 92-335 at pp 79,568-9. Postseparation contributions Counselfor the wife submitted that the wife made significant contribution to thesupport of the children after separation. Authoritysupports the propositionsthat adult children are children of the marriage within themeaning of s 79 of the Act and that payments made to them and, Iconsider,

in support of them can be regarded as contributions withinthemeaning of s 79.[30] Iaccept that the provision of accommodation in the former matrimonial home andfinancial support after separation to the two youngerchildren (the older ofwhom would have reached majority by, or soon after separation) amounted to acontribution to the childrenof the marriage within the meaning ofs 79(4)(c) of the Act. I consider that, whilst the financial supportprovided by the wife is a contribution made solely by her from the utilisationof her earning capacity, the provision of accommodation should be regarded as acontribution by both parties given that the formermatrimonial home was acquiredand maintained during the marital relationship. Iaccept the wifes unchallenged evidence that, after separation, she wassolely responsible for paying the education expensesfor the two youngestchildren. I accept the husbands unchallenged evidence that, afterseparation, he contributed $5,000.00toward the purchase, by one of thechildren, of a motor vehicle. I accept that he travelled with one of thechildren to northernQueensland to support her during her participation ininterviews. Thewife acquired the I Street property for $395,000.00 in December 2008, usingfunds ($420,000.00) borrowed on an interest only basis.This property now has anagreed value of $340,000.00. The wife acquired the M Street property for$505,000.00 in January 2011, usingfunds ($520,000.00) borrowed on an interestonly basis. This property now has an agreed value of $490,000.00. Therefore,whilst acquired after separation without the direct contribution of the husband,such acquisitions did not contribute netvalue to the property of theparties. Whilstthe wife met the expenses associated with the ownership of the properties (savethe G Street property which expenses were metby the husband) she did so withthe benefit of the receipt of rental income. Iaccept the wifes unchallenged evidence that, after separation, she madesignificant contributions, totalling about $534,000.00,to her superannuationinterest. Whilst she did so by utilising the earning capacity to which Iconsider that the husband had madeindirect contribution during cohabitation, itcannot be forgotten that these superannuation contributions would not haveoccurredbut for her continuing to work hard in her practice. Conclusions as to Contributions: s 79(4)(a)-(c) Inassessing the contributions made by the parties the Court embarks upon a processinvolving the exercise of a broad discretion inrespect of which reasonableminds may differ. Whilst this process is neither an

accounting or mathematicalexercise,[31] it does involve amovement from a qualitative evaluation of contributions to a quantitativereflection of such evaluation that is, a leap fromwords to figures.[32] Iconsider that, whilst the wife made the overwhelming financial contributions tothe acquisition, conservation and improvement ofthe property of the partiesduring cohabitation, the husband made the overwhelming contribution to thewelfare of the family andin the capacity of homemaker and parent in the sameperiod. Thecontribution of any party as a homemaker and parent must be assessed not in anymerely token way, but in termsof its true worth tothe accumulation of property during the cohabitation: Mallet and Mallet(1984) 156 CLR 605. Iconclude that, in the period from the commencement of cohabitation until theparties separated in July 2008, the contributions ofthe parties, albeitdifferent, were equal. Counselfor the wife submitted that an appropriate assessment of contributions to trialneeded, however, to reflect the post separationcontributions made by the wife.Counsel for the husband submitted to the effect that, whilst the wife madefinancial contributionspost separation, as the source of these originated inwhat she described as the joint family business, the Court shouldreach a conclusion of equality of contributions as at the date of trial. Whilstthe wifes earning capacity was sourced in and arose out of thequalifications she obtained during the course of cohabitation,the utilisationof such capacity rested solely in her. In the post separation period, herefforts in utilising her income earningcapacity occurred in circumstanceswhere: thehusband made no contribution to the acquisition and conservation or improvementof property of the parties other than to the GStreet property; thehusband made no contributions in the nature of homemaker or parentingcontributions other than as outlined above in paragraph54;and shewas responsible for the primary care and for meeting, substantially, thefinancial needs of the two younger children who were17 and 14 years of agerespectively at the date of separation. Iconsider that, the wifes post separation contributions are such as tocompel a conclusion that the assessment of the partiescontributions inthe period from separation until trial favours the wife. I take into account thepost separation contributions madeby the wife as outlined above and concludethat a quantification of contributions to trial as to 55 per cent to the wifeand 45 percent to the husband is just and equitable between the parties. Theassessment of contributions in

this manner results in a disparity in theparties respective financial positions in favourof the wife in an amountof about $769,520.00 which, I consider, appropriately reflects the wifespost separation contributionto superannuation interests and her application ofincome from the practice and her temporary work to the financial support of thechildren. Noneof the orders proposed by either party will have any effect on the earningcapacity of either party. Relevant s 75(2) matters Thewife is 56 years of age and currently works in a temporary capacity for twobusinesses. She works three days per week at eachbusiness. Thehusband is 67 years of age. He is currently in receipt of Centrelink benefits.He has been able to access his superannuation interestsin the GuntupalliSuperannuation Fund but, until the hearing, was unable to roll over hisentitlement to superannuation in the PGuntupalli Superannuation Fund into afund nominated by him. Sensibly the parties reached agreement in relation tothis issue duringthe hearing. Whilstthe wife has previously experienced a period of ill health following her receiptof notification from her professional regulatorybody that restrictions would beimposed upon her practising, the evidence does not support a conclusion thatsuch ill health is ongoing. Thehusband has previously been diagnosed with prostate cancer. In late 2013 he hadsurgery which has left him with ongoing symptomssuch as bladder and bowelincontinence and rectal bleeding. He may require further surgery for hisincontinence. Whilst the medicalevidence establishes that the existence ofprostate cancer should not be an impediment to the husbands futureparticipationin paid employment,[33] I accept that the describedside effects may well affect his future ability to work for remuneration. Inany event, even if further surgery rectifies the husbands current medicalcondition to the extent that there is no ongoingimpact upon his ability toundertake remunerative work, I consider it is highly unlikely that he willgenerate any substantial incomein the future given: thelimited returns from the practice in the 2011 2013 financial yearsduring which the income generated ranged between $33,302.00and $42,951.00;and thathis practice incurred losses in the 2011 and 2012 financial years and achievedmarginal profit in the 2013 financial year; and hisage. Incontrast, the wife retains significant earning capacity. It is overwhelminglysuperior to that retained by the husband. The benefitwhich may flow to her fromthe utilisation of this capacity is apparent from a consideration of theprevious return to her from

herpractice: Financial year Return 2010 $375,026.00 2011 $425,410.00 2012 $576,832.00 Thewife closed her practice in October 2012. She accepted during cross examinationthat, in about May 2013, she submitted a businessplan to her insurers inanticipation of recommencing the practice. No details of this event was,however, contained within eitherof the affidavits relied upon by her at thehearing. Iconsider that the wife was less than forthcoming about her future plans for therecommencement of her practice. Iconsider it more likely than not that the wife will recommence operation of herown practice in the foreseeable future. I arriveat this conclusiongiven: thewifes history of hard work and current engagement in employment for 6days per week; and thatthe premises from which she previously operated the practice have remaineduntenanted since the closure of the practice in October2012 and are currentlyimmediately available for her use; and thatthere is no impediment from the relevant government agency to her recommencingpractice in the same manner she did prior to October2012; and thatthe return available to the wife from operating her own practice (as noted inparagraph 72) is likely to be significantly greaterthan the remuneration shereceives from her employment in a temporary capacity where such activity seesher receive only 50 per centof the fees she generates; and that,by virtue of the P Guntupalli Superannuation Funds ownership of thepremises from which her practice previously operated,there are likely to beassociated financial benefits to the wife should she recommence her practicethere. Itake into account that each of the parties currently has available to them theproperty outlined in paragraph 9 and that, by virtueof his age, the husbandwill be able to access, in whatever manner he deems appropriate, hissuperannuation entitlements. Whilstthe wife has previously provided assistance to the adult children of therelationship, they are now either financially self-supportingor have thecapacity for financial self-support. Matters considered pursuantto s 75(2)(o) The $100,000.00 withdrawn by the wife between 21 October 2012 and11 November 2012 and the $75,000.00 about which the husband wascross-examined Thewife withdrew a total of $100,000.00 by making 20 individual withdrawals of$5,000.00 each in the period from 21 October 2012to 11 November 2012. Thesewithdrawals occurred in circumstances where she had started working in atemporary capacity sometime inOctober2012.[34] Thewife says that she spent this money on

general living expenses, holidays and inmeeting the educational costs for the children. Inexercising the discretion to determine the manner in which, in determining justand equitable orders, the wifes withdrawalof $100,000.00 in about 22days in 2012 is to be treated, it is appropriate to note the comments of theFull Court in M & M [1998] FamCA 42 at paragraph 2.11 that: There seems to be no appropriate basis for notionally adding backmonies that existed at separation but which have been subsequentlyspent onmeeting reasonably incurred living expenses. Neither the Family Law Actnor the case law require that parties go into a state of suspended economicanimation once their marriage breaks down pending theresolution of theirfinancial arrangements. Parties are entitled to continue to provide for theirown support. Whether any expenditureso incurred is reasonable or extravagant isa matter that can be determined by the trial judge. Inthe absence of any documentation substantiating any of the asserted expenses, Ihave significant reservations about the wifesevidence in this respect.Such relative extravagance seems to me to be at odds with the approach tofinancial expenditure which hasseen the parties accumulate over $7 millionworth of property and superannuation entitlements from 1982 until the present.It isalso at odds with the husbands unchallenged evidence that, ratherthan employing a more qualified person to act as a receptionistin her practice,the wife would use the services of students. Iam not persuaded that the wifes actions were required to meet reasonablyincurred living expenses or that such expenditurewas reasonable. Iaccept the husbands evidence of a round robin withdrawaland re-deposit of the $75,000.00 about which he wascross-examined. It followsthat I do not accept the submission made by Counsel for the wife to the effectthat there is an offsettingof this amount against the $100,000.00withdrawn by the wife. The failure to rent the practice premises post October2012 Despitethe commercial rent for the premises from which the wifes practicepreviously operated being in the vicinity of $40,000.00peryear,[35]the premises have remainedvacant since 1 October 2012 when the wife closed her practice. No rent has beenpaid by the company tothe P Guntupalli Superannuation Fund for the premisessince 1 July 2013. Theconsequence for the P Guntupalli Superannuation Fund the owner of thesepremises is obvious. Iaccept that the husband wanted the superannuation fund to continue to receiverent for these premises after the wife closed herpractice.

In the absence ofdocumentary evidence to corroborate the wifes assertion to this effect, Ido not accept thatshe told her then lawyer to tell the husband that she wouldmove her practice from the premises if an alternative tenant could befound. Ifind that the Funds non-receipt of rental income from the premisesoccurred as a consequence of the wifesdecision to cause the company notto pay rent and not to vacate the premises so that an alternative tenant couldbe found. The wifes failure to invest the funds ofParthasarathi Pty Ltd Thewife operated her practice through Parthasarathi Pty Ltd which currentlyhas assets of $974,056.00 in cash or cash equivalents. She accepted duringcross-examinationthat her previous practice had been to invest this cash amountin term deposits. She also accepted that she had not done so sinceJuly 2013. She accepted that she could have invested the money in term deposits and earnedup to six per cent but chose not to andleft the money in a savings accountearning interest of around two per cent. Suchfailure to act after separation in the same manner that she had acted beforeseparation has had the consequence of diminishing,although in an unquantifiableamount on the evidence, the value of the property of the parties as at the dateof trial. Conclusions as to s 75(2) factors Counselfor the husband submitted that an adjustment in the husbands favour ofseven per cent for the relevant 75(2) matterswould do justice and equitybetween the parties. If acceded to, the property of the parties and theirsuperannuation interests wouldbe divided 57 per cent in his favour and 43 percent in the wifes favour. Such conclusion would result in a 14 per centdifferentialbetween the parties and would see the husband receive property andsuperannuation entitlements valued at about $1,077,328.80 morethan the propertyand superannuation entitlements retained by the wife. Counselfor the wife relevantly submitted that, given the property and superannuationentitlements available to the husband as a consequenceof the quantitativeexpression of the assessment of respective contributions, the Court would not,having considered the relevantsection 75(2) factors, conclude that it was justand equitable as between the parties that there be any adjustment in favour ofthe husband. Myconclusions as to the respective contributions of the parties will result in a10 per cent differential between the parties: thewife will receive property andsuperannuation entitlements valued at $769,520.00 more than the property andsuperannuation entitlementsreceived by the husband.

Giventhe matters considered pursuant to s 75(2) I am not satisfied that such anoutcome would be just and equitable. Rather, having regard to: myconclusion about the wifes withdrawal of $100,000.00 in circumstanceswhere she was soon after employed; and thewifes decision not to rent out the practice premises after1 October 2012; and thewifes decision not to invest the company funds after separation in thesame manner that she had done before separation; and thedisparity in the parties respective income earning capacities; and thelikely impact of the husbands health issues on both his capacity toutilise his inferior income earning capacity and inincreasing his costs ofself-support; and thedisparity in the age of the parties with the likely consequence that the wifewill be able to utilise her significantly superiorearning capacity to improveher financial position in the future whilst the husband will be left to relyupon the property and superannuationinterests he has and receives as aconsequence of these proceedings, I conclude that anadjustment of five (5) per cent in the husbands favour is required toensure a just and equitable outcome. Justice and equity of the proposed orders Theconsequence of the conclusions outlined above is that, having regard to theparties respective contributions to trial andthe relevant s 75(2)matters, at the conclusion of a long relationship, productive of three now adultchildren, during which each contributed fully andto the best of theirrespective abilities and from which one of the parties the wife retains a significant incomeearning capacity which may be utilised to achievesubstantial monetary return, the parties will share equally in the combinedpropertyand superannuation interests. Giventhe agreement about assets to be retained and received by each party, asuperannuation-splitting order will be required to achievethis result. Consequently, the wifes superannuation entitlement in P GuntupalliSuperannuation Fund will be reduced by anamount of $554,575.79, and thehusbands interest in the P Guntupalli Superannuation Fund will beincreased by this amount. Theconsequence for the parties of the conclusions outlined above is summarised inthe table below which outlines property and superannuationeach will retain orreceive. HUSBAND WIFE Property Value Property Value G Street, Suburb H $360,000.00 K Street, Suburb L $320,000.00 B Street, Suburb C $435,000.00 I Street, Suburb J $340,000.00 D Street, Suburb E $380,000.00 M Street, Suburb A $490,000.00 Suncorp Account #...00 $14,231.77 F Street, Suburb C $610,000.00 Suncorp eOptions

#...08 $10,602.88 Suncorp everyday options #...12 CBA business premium #...07 $15,090.60 Suncorp everyday options #...70 CBA business online Saver #...32 $14,539.51 CBA streamline #...07 $119,050.69 AMP shares 1413 $5,892.00 CBA Netbank Saver #...58 $13,012.57 Suncorp shares 931 $11,107.00 AMP shares 991 $4,132.47 Wesfarmers shares 242 $9,970.00 Toyota Prado Toyota Rav 4 $14,000.00 Parthasarathi Pty Ltd $1,034,666.20 N Business Loan owing to wife from Parthasarathi Pty Ltd as at 30/6/13 $9,951.00 CBA gold awards card #...95 ($2,757.90) CBA Diamonds award card #...89 (credit) $8,124.51 P Guntupalli Superannuation Fund (inclusive of super-split) $2,339,859.79 CBA home loan #...909 (K Street) ($145,990.00) Guntupalli Superannuation Fund $190,067.00 CBA home loan #...500 (D Street) ($247,572.00) CBA home loan #...400 (M Street) ($520,150.00) CBA home loan #...404 (D Street) ($415,010.00) P Guntupalli Superannuation Fund (less amount of super-split) $2,133,159.21 SunSuper $44,228.00 Total Non-Super assets Total Superannuation TOTAL $1,267,675.86 $2,529,926.79 $3,797,602.65 $1,620,215.44 $2,177,387.21 $3,797,602.65 Itis clear, therefore, that each party will receive or retain investmentproperties from which income may be derived. Save for creditcard debt, thehusband will be debt free. By virtue of his age he will be able to access hissuperannuation entitlements. Thewife will continue to be responsible for debt in an amount of about$1,760,000.00. This is the position which existed at separation.Whilst she willno longer have the B Street or D Street properties from which contribution canbe made to the repayment of this debt,her position at the commencement of thehearing was that, having transferred those properties to the husband, she wouldcontinueto be responsible for debt in an amount of about $1,614,010.00. Thewife will continue to obtain the taxation benefits availablefrom the negativegearing of rental properties. She will retain significant superannuationentitlements. Forthe reasons outlined above, I am satisfied in all the circumstances of this casethat it is just and equitable and appropriatethat orders be made adjusting theexisting interests of the parties in property and superannuation interests suchthat there is anequal division of the total value of the property andsuperannuation interests between the parties. Consequently,I make orders in the terms appearing at the commencement of these Reasons togive effect to the conclusions outlinedabove. I certify that the preceding one hundred (100) paragraphs

are a true copyof the reasons for judgment of the Honourable Justice Hogandelivered on21 February 2014. Associate: Date: 21February 2014 [1] Stanford and Stanford[2012] HCA 52; (2012) 247 CLR 108, [42]. [2] Ibid at [42]. [3] Family LawAct 1975 (Cth) s79(4)(a), (b) &(c). [4] Family Law Act 1975(Cth) s79(4)(a), (b) &(c). [5] Exhibit 3 and thesubsequent schedules provided by Counsel during submissions. [6] Schedule handed up byCounsel for the wife during submissions. [7] Exhibit 3. [8] Adjusted total to reflectthe value of the wifes professional practice based on the Schedule handedup by Counsel. [9] Adjusted total to reflectthe value of the wifes professional practice based on the Schedule handedup by Counsel. [10] as conveyedto the court by Counsel. [11] appointed to valueParthasarathi Pty Ltd, the wifes professional practice and thehusbands professionalpractice. [12] Affidavit of Mr Ofiled 8 January 2014. [13] Wife's affidavit filed 18 November 2013, paragraph 11. [14] NHC & RCH[2004] FamCA 633; (2004) 32 Fam LR 518,[57]. [15] Ibid at [56]. [16] M&M [1998] FamCA42; Cerini & Cerini [1998] FamCA 143, [46]; Omacini & Omacini[2005] FamCA 195; (2005) 33 Fam LR 134, [39]; Kouper & Kouper (No 3) [2009] FamCA1080, [107]. [17] delivered 24October 2012 preStanford [18] delivered12 February 2013. [19] BryantCJ & Thackray J; delivered 8 August2013 [20] [2013] FamCA 105, delivered 27 February 2013. [21] Stanford and Stanford[2012] HCA 52; (2012) 247 CLR 108, [39] citing Hepworth v Hepworth (1963) 110CLR 309, 317 per Windeyer J. [22] Mallet v Mallet(1984) 156 CLR 605. [23] Bevan & Bevan [2013] FamCAFC 116,[73]. [24] Financial Statementfiled 18 November 2013. [25] Affidavit 11 November 2013,paragraph 70 [26] the detailsof which she had disclosed [27] Exhibit 4. [28] EvidenceAct 1995 (Cth) s142(1). [29] other than to the G Street property. [30] See, for example:Dougherty v Dougherty [1987] HCA 33; (1987) 163 CLR 278; Jones & Jones (1990)FLC 92-143; C and C [1998] FamCA 143; Gollings & Scott[2007] FamCA 397; (2007) FLC 93-319. [31] See:Norbis v Norbis [1986] HCA 17; (1986) 161 CLR 513 at 522; Brandt and Brandt (1997) FLC 92-758. [32] Steinbrenner &Steinbrenner [2008] FamCAFC 193 at [234] per ColemanJ. [33] Affidavit of Dr U filed18 November 2013, annexure "DPS3". [34] Financial Statement filed18 November 2013 in which the wife asserts that she had been working for therelevant businesses forone year and onemonth. [35] Affidavit of Mr Vfiled 29 August 2013.